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Our Ref: DS
Your Ref:

Date: 13 March 2017

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 21 March 2017 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**
Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and
Councillors Atkin, Mrs Coe, Ford, Mrs Hall, Harrison, Stanton and Watson.

Labour Group
Councillors Dr Pearson, Shepherd, Southerd and Tilley.

AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.

- 2** To receive the Open Minutes of the Meetings held on 17th January 2017 and 7th February 2017.
Planning Committee 17th January 2017 Open Minutes **3 - 8**

Planning Committee 7th February 2017 Open Minutes **9 - 14**

- 3** To note any declarations of interest arising from any items on the Agenda

- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.

- 5** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **15 - 134**

Exclusion of the Public and Press:

- 6** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.

- 7** To receive the Exempt Minutes of the Meeting held on 7th February 2017.
Planning Committee 7th February 2017 Exempt Minutes

- 8** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

PLANNING COMMITTEE

17th January 2017

PRESENT:-

Conservative Group

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice Chairman) and Councillors Atkin, Mrs Coe, Ford, Mrs Hall, Harrison, Stanton and Watson

Labour Group

Councillors Dr Pearson, Shepherd, Taylor (substituting for Councillor Southerd) and Tilley

In Attendance

Councillor Billings (Conservative Group)

PL/140 **APOLOGIES**

Apologies were received from Councillor Southerd (Labour Group).

PL/141 **DECLARATIONS OF INTEREST**

Councillor Roberts declared a prejudicial interest in Item 1.1 by virtue of being an acquaintance of the landowner.

PL/142 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/143 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

Councillor Roberts left the Chamber at 6.05pm, with Councillor Mrs Brown chairing the Meeting during his absence.

PL/144 **DEMOLITION OF EXISTING RESIDENTIAL PROPERTY (CHERRY COTTAGE) AND AGRICULTURAL BARN AND PROPOSED DEVELOPMENT FOR 385 RESIDENTIAL DWELLINGS (USE CLASS C3), FORMAL AND INFORMAL PUBLIC OPEN SPACES, STRUCTURAL LANDSCAPING, NEW ROADS, FOOTPATHS AND CYCLEWAYS, (2NO.) SITE ACCESSES AND ANCILLARY WORKS ON LAND AT SK2130 8875 SOUTH OF DERBY ROAD, HATTON, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

Mr Philip Reed (objector) attended the Meeting and addressed Members on this application.

The Principal Area Planning Officer informed the Committee of various updates relating to a letter of objection, consultation responses from East Staffordshire Borough Council, Derbyshire County Council, Derbyshire Wildlife Trust and the County Highways Authority, resulting in various amendments to the existing conditions, as well as a number of new conditions.

Members raised queries relating to the height of the proposed bridge, flood prevention measures, drainage and its impact on existing homes and neighbouring areas, the removal of permitted development rights, liaison between the developer and existing householders at the site, the Section 106 health provision, the source and delivery of materials required to raise the site levels, the proportion of affordable housing, land available for South Derbyshire District Council development, traffic management during the construction period and safety measures relating to the balancing ponds (including the commissioning of a safety audit). All issues were addressed by the Principal Area Planning Officer and the Planning Services Manager.

RESOLVED:-

- A. That authority be delegated to the Planning Services Manager, in conjunction with the Chairman, to secure the appropriate contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010) and to resolve the outstanding boundary issues affecting the implementation of the link road.***
- B. That, subject to A. above and the revised conditions, planning permission be granted as recommended in the report of the Director of Community & Planning Services.***

Councillor Roberts returned to the Chamber at 7.05pm.

PL/145 **CHANGE OF USE OF PART OF AGRICULTURAL BUILDING FOR USE AS DOG BREEDING KENNELS AND INDOOR EXERCISE AREA AT POPLARS FARM, 11 DERBY ROAD, FOSTON, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

Miss Clare James (objector) attended the Meeting and addressed Members on this application.

Councillor Billings addressed the Committee as Ward Member for Hilton, referring to the planning history for the location and his concerns regarding noise and waste, as well as the feasibility of the condition relating to singular dog walking.

Other Members raised queries relating to the impact the previously agreed application for 385 dwellings nearby would have on the business, noise sources, assessment and containment / mitigation measures, waste treatment, external lighting and the enforceability of the condition regarding dog walking. These issues were addressed by the Principal Area Planning Officer, the Planning Services Manager and the Environmental Health Manager.

RESOLVED:-

That planning permission be refused contrary to officer recommendation on the grounds that the noise controlling conditions were unenforceable and therefore the proposal was contrary to Policy SD1 of the Local Plan.

Abstention: Councillor Tilley

PL/146 **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 42 DWELLINGS INCLUDING PUBLIC OPEN SPACE, LANDSCAPING AND SUSTAINABLE DRAINAGE ON LAND AT SK4129 8075 MOOR LANE, ASTON ON TRENT, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

Mr Robin Bell (objector) and Dr Robert Wickham (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Atkin addressed the Committee as Ward Member for Aston on Trent, raising his concerns regarding surface water flooding, sewage, health, recreation and education provision in the immediate area, issues addressed by the Planning Services Manager.

Councillor Watson, another Ward Member for Aston on Trent, confirmed the location's designation in the adopted Local Plan Part 1 and commended the application, citing Aston's need for additional housing. The Vice Chairman recommended that the proposed open space be made an orchard, agreed by Committee.

RESOLVED:-

A. That authority be delegated to the Planning Services Manager to conclude the Section 106 Agreement / Unilateral Undertaking in pursuit of the provisions and contributions as set out in the planning assessment.

B. That, subject to A. above and the additional condition regarding the incorporation of an orchard in the public open space area, planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/147 **PROPOSED PAVEMENT CAFE TO THE FRONT OF THE BUILDING CONSISTING OF FOUR TABLES AND EIGHT CHAIRS AT SIR NIGEL GRESLEY, MARKET STREET, SWADLINCOTE**

It was proposed that this matter be deferred for a site visit.

The registered speaker elected to return and speak when the application had been re-scheduled.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

Councillor Shepherd left the Meeting at 8.05pm.

PL/148 **THE ERECTION OF TWO DWELLINGS AT THE FORGE, BOGGY LANE, HEATHTOP, DERBY**

Mr Bryan Hall (objector) attended the Meeting and addressed Members on this application.

Councillor Billings addressed the Committee as Ward Member for Hilton, raising concerns regarding parking provision.

Given the potential for altering the character of the village by in-filling, it was suggested that a site visit was appropriate before a decision could be made.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

PL/149 **SUSPENSION OF STANDING ORDERS**

RESOLVED:-

That Standing Orders be suspended and that the meeting of the Committee continue beyond 8.30pm.

PL/150 **THE ERECTION OF A DETACHED DWELLING AT LAND TO THE REAR OF FIELDGATE HOUSE, MARLPIT LANE, SUTTON ON THE HILL, DERBY**

It was proposed that a site visit be undertaken.

Mr Rob Duckworth (applicant's agent) elected to speak at this Meeting and addressed Members on this application. Mr John Church (objector) opted to return and speak when the application had been re-scheduled.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

PL/151 **CHANGES TO THE FACADE OF THE BUILDING AT 1 THE DELPH CENTRE, MARKET STREET, SWADLINCOTE**

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/152 **CHANGE OF ADVERTISING SIGNAGE FROM NEON TO BACKLIT LED AT 1 THE DELPH CENTRE, MARKET STREET, SWADLINCOTE**

RESOLVED:-

That express consent be granted as recommended in the report of the Director of Community & Planning Services.

PL/153 **THE VARIATION OF CONDITION 2 ATTACHED TO PLANNING APPLICATION 9/2015/1060 FOR MARQUEE TO BE USED AS AN EVENTS MARQUEE AT ROSLISTON FORESTRY CENTRE, BURTON ROAD, ROSLISTON, SWADLINCOTE**

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/154 **THE DEMOLITION OF PART OF EXISTING BUILDINGS TO FORM ACCOMMODATION FOR COUNCIL STREET SERVICES DEPOT AND CONSTRUCTION OF NEW RETAINING WALL AND SECURE FENCING AT UNITS 1 & 4B BOARDMAN INDUSTRIAL ESTATE, BOARDMAN ROAD, SWADLINCOTE**

RESOLVED:-

That planning permission be granted pursuant to Regulation 3 as recommended in the report of the Director of Community & Planning Services.

Councillor Billings left the Meeting at 8.30pm.

PL/155 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2016/0461 Cheal Close, Shardlow, Derby, DE72 2DY
9/2016/0559 Deep Dale Lane, Barrow upon Trent, Derby, DE73 7NH

PL/156 **PROPOSED TREE PRESERVATION ORDER 438 LAND AT THE DALES, ASKEW GROVE, REPTON**

RESOLVED:-

That this tree preservation order be confirmed.

PL/157 **PROPOSED TREE PRESERVATION ORDER 437 LAND AT BROOMHILLS LANE, REPTON**

RESOLVED:-

That this tree preservation order be confirmed.

PL/158 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at 8.35pm

COUNCILLOR A ROBERTS

CHAIRMAN

PLANNING COMMITTEE

7th February 2017

PRESENT:-

Conservative Group

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice Chairman) and Councillors Atkin, Mrs Coe, Ford, Mrs Hall, Harrison, Stanton and Watson

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley

In Attendance

Councillors Billings and Mrs Coyle (Conservative Group)

PL/159 **APOLOGIES**

The Committee was informed that no apologies had been received.

PL/160 **MINUTES**

The Open Minutes of the Meetings held on 18th October 2016 (PL/83-PL/96), 8th November 2016 (PL/97-PL/112), 29th November 2016 (PL/115-PL/128) and 20th December 2016 (PL/129-PL/139) were taken as read, approved as a true record and signed by the Chairman.

PL/161 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/162 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/163 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/164 **OUTLINE APPLICATION WITH ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL FOR RESIDENTIAL DEVELOPMENT COMPRISING OF UP TO 25 DWELLINGS, OPEN SPACE AND OTHER ASSOCIATED WORKS ON LAND AT SK3126 0097 MILTON ROAD, REPTON, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

Professor Carol Lloyd (objector) and Mr Steve Lewis-Roberts (applicant's agent) attended the Meeting and addressed Members on this application.

The Principal Area Planning Officer informed the Committee of two updates, referencing the Repton Neighbourhood Development Plan as emerging policy, as well as the Ministerial Statement.

Councillor Stanton addressed the Committee as Ward Member for Repton, referring to the visibility of the proposed development, the status of the emerging Neighbourhood Development Plan, the volume of development in the village and the revised village boundary, expressing his view that the Committee's determination on this application be deferred until the Local Plan Part 2 and Repton Neighbourhood Development Plan were both in place.

Other Members raised queries relating to the weight given to the Neighbourhood Development Plan, the revised village boundary, the potential for appeal if a decision was deferred, the location and number of dwellings within the development area, drainage, visual impact and the potential for future development. All issues were addressed by the Principal Area Planning Officer and Planning Services Manager.

RESOLVED:-

- A. That authority be delegated to the Planning Services Manager to conclude the Section 106 Agreement in pursuit of the provisions and contributions as set out in the report.***
- B. That, subject to A. above planning permission be granted as recommended in the report of the Director of Community & Planning Services and subject to the additional condition to monitor surface water control and the addition to the Section 106 to preclude development of land to the north of the public footpath.***

PL/165 **DEMOLITION OF EXISTING DWELLING (FORMER VICARAGE) AND THE ERECTION OF 2 NO DWELLINGS AT 11 TWYFORD ROAD, BARROW UPON TRENT, DERBY**

It was proposed that this application be deferred for a site visit.

The registered speaker opted to return when the matter was rescheduled.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

PL/166 **DEMOLITION OF EXISTING DWELLING (FORMER VICARAGE) AT 11 TWYFORD ROAD, BARROW UPON TRENT, DERBY**

It was proposed that this application be deferred for a site visit.

The registered speaker opted to return when the matter was rescheduled.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

PL/167 **THE DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF A TWO STOREY DETACHED DWELLING AT 2 MAIN STREET, AMBASTON, DERBY**

Mr Colin Franklin (applicant) attended the Meeting and addressed Members on this application.

Councillor Mrs Coyle addressed the Committee as Ward Member for Aston on Trent, referring to the lack of objection to this development in the village, the mixed house styles, the position and landscaping of the proposed dwelling, expressing her view that it would enhance the village. Councillor Watson, another Ward Member for Aston on Trent, expressed surprise at the application's referral to Committee, but suggested that a condition be applied regarding the materials used.

Other Members welcomed the replacement of a near derelict building, but noted the departure from standing policy if the application was approved. However, it was felt that in this instance the development was not harmful to the location.

RESOLVED:-

A. That planning permission be granted contrary to the recommendation in the report of the Director of Community & Planning Services on the grounds that Ambaston has no vernacular, a variety of styles, that the proposed development is proportionate to the size of the plot and as a whole is not harmful to its location.

B. That delegated authority be granted to the Planning Services Manager to negotiate the necessary conditions.

Abstentions: Councillors Harrison, Roberts and Tilley.

Councillor Mrs Coyle left the Meeting at 7.05pm.

PL/168 **THE ERECTION OF A DETACHED DWELLING AT LAND TO THE REAR OF FIELDGATE HOUSE, MARLPIT LANE, SUTTON ON THE HILL, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

The Planning Services Manager informed Committee of the additional condition relating to the control of window glazing on the first floor overlooking the neighbouring gardens and read out the summary of the applicant's agent's speech as made at the previous Committee.

Mr John Church (objector) attended the Meeting and addressed Members on this application.

Councillor Billings addressed the Committee as Ward Member for Hilton, noting the current position between Local Plan Parts 1 and 2 in terms of the settlement's boundary definition, also referring to the size of the proposed development, it not being in character for the village, nor qualifying as infill, more a back-land development.

Other Members raised queries relating to the potential for over-development of the site, the lack of garden space, its overbearing nature and proximity to other dwellings, all issues addressed by the Planning Services Manager.

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/169 **THE ERECTION OF TWO DWELLINGS AT THE FORGE, BOGGY LANE, HEATHTOP, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

The Planning Services Manager read out the summary of the objector's speech as made at the previous Committee and informed Committee that in response to issues raised at the last Committee, the applicant had revised the plans to accommodate additional parking.

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

Councillor Billings left the Meeting at 7.35pm.

PL/170 **PROPOSED PAVEMENT CAFE TO THE FRONT OF THE BUILDING CONSISTING OF FOUR TABLES AND EIGHT CHAIRS AT SIR NIGEL GRESLEY, MARKET STREET, SWADLINCOTE**

It was reported that members of the Committee had visited the site earlier in the day.

The Planning Services Manager accepted that, following the visit, the measurements quoted in the report were incorrect and appraised the Committee of the correct dimensions.

Councillor Tilley addressed the Committee as Ward Member for Swadlincote, noting the difficulties posed by the proposed seating on the corner by the conservatory and walkway, but that other outdoor seating was available.

Other Members noted the original aims of the Delph's redevelopment, particularly in relation to assisting access for all, regardless of their mobility restrictions, the potential for obstruction, boundary marking and public safety, all issues addressed by the Planning Services Manager.

RESOLVED:-

That planning permission be refused contrary to the recommendation in the report of the Director of Community & Planning Services on the grounds of the application being injurious to safety of users of the highway contrary to LP1 Policy INF 2.

PL/171 **THE FELLING OF TREES AND THE RELOCATION OF ONE TREE AT THE DIANA GARDEN, GROVE STREET, SWADLINCOTE**

RESOLVED:-

That no objection to the works be offered, as recommended in the report of the Director of Community & Planning Services.

PL/172 **CHANGE OF USE WITH REMOVAL OF CONCRETE SLABS AND REGRADING OF LEVELS TO CREATE VEHICLE PARKING AREA ALONG WITH ERECTION OF LIGHTING AT SABINES YARD, BELMONT STREET, SWADLINCOTE**

RESOLVED:-

That planning permission under Regulation 3 be granted as recommended in the report of the Director of Community & Planning Services.

PL/173 **THE ERECTION OF A SINGLE STOREY REAR EXTENSION AT 62 ARTHUR STREET, CASTLE GRESLEY, SWADLINCOTE**

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/174 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2016/0151	Rose Valley, Newhall, Swadlincote, Derbyshire, DE11 0QN
9/2016/0463	Grange Farm Court, Linton, Derbyshire, DE12 6RP
9/2016/0464	Grange Farm Court, Linton, Derbyshire, DE12 6RP
9/2016/0568	Staker Lane, Mickleover, Derby, DE3 0DJ
9/2016/0691	Burton Road, Midway, Swadlincote, Derbyshire, DE11 0DW

PL/175 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT MINUTES

The Exempt Minutes of the meeting held on the 8th November 2016 (PL/113-PL/114) were taken as read, approved as a true record and signed by the Chairman.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at 7.50pm.

COUNCILLOR A ROBERTS

CHAIRMAN

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2016/1095	1.1	Calke	Repton	17
9/2016/1124	1.2	Calke	Repton	39
9/2016/1016	1.3	Scropton	Hilton	41
9/2016/0238	1.4	Melbourne	Melbourne	62
9/2016/0454	1.5	Barrow	Aston	69
9/2016/1050	1.6	Stenson	Stenson	80
9/2016/1181	1.7	Chellaston	Aston	87
9/2016/1228	1.8	Walton	Seales	94
9/2016/1035	2.1	Willington	Willington & Findern	105

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

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

Item 1.1

Ref. No. 9/2016/1095/SSA

Applicant:
Mr Stewart Alcock
Calke Abbey
Main Street
Ticknall
Derby
DE73 7LE

Agent:
Miss Jane Willars
Allan Joyce Architects Ltd
16-20 Bath Street
Nottingham
NG1 1DF

Proposal: CONSTRUCTION OF NEW OUTDOOR HUB AND ASSOCIATED INFRASTRUCTURE INCLUDING SERVICES, ACCESS ROADS (INCLUDING DEMOLITION OF SECTION OF EXISTING PARK BOUNDARY WALL TO PROVIDE ACCESS), CAR PARKING, FOOTPATHS AND DRAINAGE ALONG WITH CHANGE OF USE OF LITTLE TOWN LEYS FROM AGRICULTURAL LAND TO CAR PARKING AT CALKE ABBEY MAIN STREET TICKNALL DERBY

Ward: REPTON

Valid Date 09/11/2016

Members will recall deferring these applications at the last meeting to allow for a visit to the site to take place. There have been no changes to the reports.

This application is to be considered jointly with application 9/2016/1124 below.

Reason for committee determination

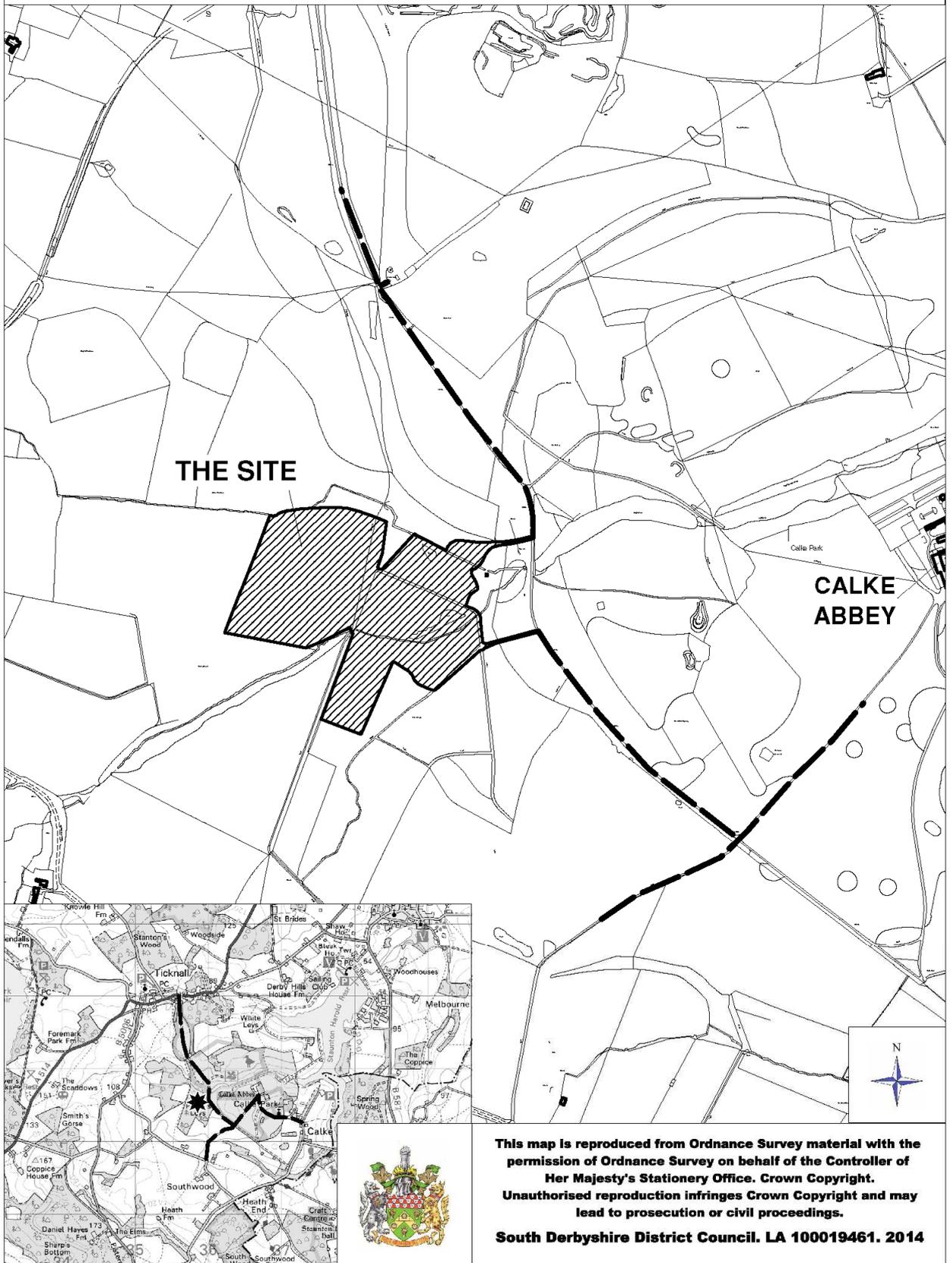
The item is presented to Committee at the request of Councillor Stanton as local concern has been raised about a particular issue.

Site Description

The application site is located within the Calke Abbey estate, which is located to the south of the village of Ticknall. The estate itself extends to over 2300 acres and contains the Grade I listed house, within a Grade II* Registered Park and Garden. The estate also contains SSSIs and National Nature Reserve.

The proposals are confined to land within the ownership of the National Trust and located to the west of the main historic registered park and garden.

9/2016/1095 & 1124 - Calke Abbey, Main Street, Ticknall, Derby DE73 7LE



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Proposal

The application proposes the creation of a new 'Outdoor Hub' facility within the Calke Estate. The facility would comprise a new building containing a café, toilets and cycle hire facility with outdoor seating areas. An outdoor discovery area is proposed linking to cycle trails and walks within the immediate and wider estate. New infrastructure is proposed to support the building and use of the site with access roads, car parking and drainage proposed.

The hub is shown located centrally to the estate, and would be accessed off the main drive to Calke Abbey after it passes through the Middle Lodge Gate House, and Raggs Close which is currently used for informal parking. The new access road extends from the main drive through a small part of the SSSI which is bound by an existing dry stone wall through which the access road is proposed to pass. The creation of a breach in the wall requires listed building consent in its own right and is the subject of application reference 9/2016/1124. The access road then passes through an area of woodland to the site of the proposed Hub, and its parking area within an area known as Pokers Wetland, the car parking area extends in to the adjacent field to the west known as Little Town Leys where an area of formal parking and informal overflow parking is proposed. The site access is proposed as a one way system, which extends from the car parking area through Pokers Leys to link with the an existing track (serving Calke Explore) to link in to the main estate drive.

Applicant's supporting information

The Planning Statement provides an assessment of the proposal in relation to the main national and local policy considerations. The proposal is considered to be inherently sustainable, strengthening the local economy and improving the leisure facilities at Calke Abbey. The impact of the development on the SSSI and the surrounding heritage assets have been a key consideration throughout the site selection, access routes, site layout and construction strategy. The proposal is considered to comply with the relevant policies of the 2016 Local Plan Part 1; meeting the sustainable growth strategy; promoting the use of sustainable modes of transport; providing for suitable sustainable drainage; The proposal utilises sustainable technology through photovoltaics and an air source heat pump; The proposal has been designed as a response to its immediate surroundings and heritage with the hub conceived in order to relieve pressure on the heritage core of the estate and to improve public access to the wider estate; The scheme has been designed to work with the existing site topography to minimise impact on the wider landscape; The traffic survey considers that the existing infrastructure would operate satisfactorily and can cope with the predicted future increase in flows to Calke Abbey; The hub will provide a high quality outdoor open space that would aid in improving the visitor experience at Calke and the tourist facilities within the District.

The Design and Access Statement incorporating a Heritage Impact Assessment sets the context for the proposal, outlining the scheme itself, with the need for the development being driven by:

1. Delivery of the National Trust's vision and ambitions within the Trust's 10 year Strategic Plan 2025;

2. Implementation of the recommendations set out in the Calke Abbey Parkland Plan that are designed to conserve, protect and enhance the key historic, cultural and natural significances of Calke;
3. Addressing the impacts and harm being caused to Calke by the increased pressure of rising visitor numbers;
4. Meeting the needs of the increasing numbers of visitors using and enjoying the outdoors at Calke.

The key benefits of the scheme are outlined as being:

1. Dissipating visitors into the wider and less visited part of the estate will reduce pressure on the visitor facilities at the important heritage core of the house and gardens and help conserve the unique character of this part of Calke.
2. Enable Raggs Close to be restored as an integral part of the Historic Park Landscape by relocating car parking and recreational use and introducing grazing and replanting as wood pasture.
3. New opportunities for people to get closer to nature and experience wildlife at first hand and to learn more about nature conservation including the importance of the National Nature Reserve through improved interpretation and engagement.
4. Providing for the needs of and a better visitor experience for people wanting to use and explore the outdoors and Calke's wide variety of landscapes and natural habitats, through new facilities and better access.
5. Offering many health and wellbeing benefits by providing ways for people to get active and fit, get closer to nature and enjoy being outdoors in a way that brings pleasure throughout life and fosters wellbeing.
6. Widening participation and engagement through providing new opportunities and improving accessibility for a wider range of audiences who have different motivations for visiting and enjoying National Trust properties, including young people and people who have disabilities.

The statement includes details of the widespread pre-application consultation undertaken with residents and statutory bodies. The design development of the scheme is set out, outlining the options considered as part of the design process for the location of the hub which is considered in detail in the 'Landscape and Site Analysis for the Location of the Hub', and the access options taking in to account the impact on SSSI / NNR and wildlife, impact on the historic park, operational, technical constraints and cost, and the mitigation potential. This assessment has resulted in the current proposal, with the building sited to the north west of the existing pond within an area outside the SSSI and away from the main historic interest of Calke Abbey and its park. The car parking is arranged as an area of permanent parking and overflow spaces to the west of the hub building. Generally due to the relatively low level of the site and the extensive belts of mature and plantation woodland; the visibility of the site is greatly restricted and the building would be hidden from views beyond the immediate site area. In order to minimise the impact of the roadway a one-way system is proposed in order to minimise the width of vegetation removed and reduce the impact of the development on the park itself. The building itself is designed to be an individual, interesting building attractive to visitors whilst acknowledging its place in the hierarchy of buildings on the estate and reflecting its

woodland environment. Overall the benefits of the proposal are considered to outweigh any impact on the heritage assets in the area.

The Transport Implications Technical Report has utilised visitor data from the National Trust and existing traffic data by observation of turning counts of a number of junctions. The junctions assessed were;

- A514 Main Street, Ticknall (Main entrance to Calke);
- A514 Burton Road / B5006 High Street (Ashby Road);
- Exit from Calke Abbey north of Calke Village;
- Calke Village on to Heath Lane;
- Heath Lane / Staunton Lane; and
- B5006 Derby Road / Staunton Lane.

Each of these junctions has been assessed using three scenarios of visitor numbers to the estate in order to assess the predicted operation of these junctions;

- 350,000 visitors per year;
- 450,000 visitors per year; and
- 550,000 visitors per year.

The assessment indicates that all of the assessed junctions would operate satisfactorily with the worst case predicted flows (i.e. 550,000 visitors per year). Further on-site assessments of the existing junctions were undertaken and the report concludes that the existing road network can cope with the predicted future increase in flows to Calke Abbey and as such the predicted impacts of the development would not be severe.

A number of Ecology Surveys have been carried out at the site and include a Desk Study, Extended Phase 1 Habitat Survey, Pond Habitat Assessments, Badger Sett Monitoring, White-clawed crayfish Survey, and Water Vole Survey. The site is partly within the Calke Park SSSI and NNR, which encompasses the ancient deer park, rich woodland pasture and large old/veteran oak trees with exceptional deadwood invertebrate fauna. Notable habitats recorded within the survey area include woodland, streams, ponds and marshy grassland. White-clawed crayfish, bats, birds, invertebrates, common amphibians and fish have been recorded within the survey area. It is recommended that works avoid the water network within the survey area, with the visitor building and car parking situated on the improved grassland fields so as to have as little impact as practicable. Cycle tracks have been sites carefully sited to stick as closely as possible to existing paths and desire lines. Detailed mitigation measures are outlined within the reports in order to mitigate any likely impacts of the development.

An Invertebrate Survey of Selected Trees has been undertaken of trees affected by the road proposed within the SSSI. The report considers that the affected trees are no more important than any other veteran or mature trees in the Park and concludes that the invertebrate fauna of the small number of trees affected should not be adversely impacted by the development. A number of specific mitigation measures are proposed to minimise any impacts.

The Flood Risk Assessment identifies that the site is located within flood zone 1 and is therefore not at risk of flooding from watercourses. The site of the visitor centre and main car park are at very low risk of flooding from surface water, with the site of the overflow car park shown to be at medium/high risk of flooding from surface water but in reality due to the topography of the site this is not considered to be a constraint to the development. Rainwater harvesting is proposed on site in order to reduce the water demand of the building, with swales proposed to provide attenuation storage, reducing the run-off rate from the proposed development to Greenfield rates before discharging to the local watercourse. As there are no public sewers within the vicinity of the site, foul water from the site would be treated on site (foul water treatment plant and an aerated reed bed) before discharging to the local water course. Overall the proposed development is considered to have an acceptable flood risk within the terms and requirements of the NPPF.

The Landscape and Visual Appraisal identifies that the site lies within National Character Area 70 known as Melbourne Parkland, which covers most of the 2km study area. The landscape is characterised by a mixture of pasture and woodland that makes up the wider Calke Estate. The site is considered to be generally typical of the local character, with areas of pastoral estate and agricultural land mixed with woodland and wood pasture. The site lies within a 'bowl' within the local topography which, when combined with local vegetation creates only short views of the site which are restricted by tree cover, which is characteristic of the 'Wooded Estatelands'. Due to this restricted zone of visibility the representative viewpoints chosen for the appraisal are focussed to within the Calke Estate. Landscape and visual impacts and impacts on the historic environment are predicted to be slight adverse at most during the construction phase of the development, which at around 12 months is considered to be short term and temporary. Measures such as the preparation of a detailed landscape scheme and the careful management of the landscape by the National Trust will further minimise the impacts of the proposed development, on both landscape character and visual amenity with aspirations are to create a slight beneficial effect in time, through landscape mitigation and management.

An Arboricultural Survey & Impact Assessment has been undertaken at the site, and has assessed all of the trees that would be affected or have the potential to be affected by the development. Whilst the proposed layout seeks to minimise the impact on the surrounding landscape, given the wooded nature of site and scale of the development, the removal of a significant number of trees is unavoidable. The assessment separates the site in to three sections; the entrance road; hub and car park; and exit road. The entrance road results in a requirement to provide a 'no dig' cellular confinement system upon which the access road is to be constructed where the road passes through the SSSI and in close proximity to three substantial mature oak trees which would also need to be crown raised in order to avoid the lower branches being damaged by construction traffic. A number of poor specimen trees would also need to be removed, although this is not considered to impact on the wider landscape. The roadway whilst 3.2m wide would require a 'construction' width of 6m with trees within 8m of the centre line being removed and others within falling distance assessed for their stability. This is also the case for the proposed exit road. The area for the hub building itself and the car park would be cleared of trees, which are generally of poor quality due to the expanse of the plantation and generally poor

management of this area. Through the feasibility studies and options appraisals for the site the development overall has been sited in order to retain important trees within the area. The exact scale of tree works and removal would be determined on site at the time of installation, in consultation with the Council's Tree Officer with the aim of minimising the number of trees impacted upon and ensuring that any significant trees are not detrimentally affected by the proposal.

Planning History

9/2016/0811 Construction of a new surfaced multi use recreational family cycle trail comprising a main section connecting the ends of the existing tramway cycle route to form a circular trail and a shortcut section connecting to a mid-way point on the existing cycle route – Approved 30/11/16.

Responses to Consultations

The Open Space and Facilities Manager is in full support of the proposal. The development fits entirely with the Council's Sport and Recreation Strategy though providing a hub for sport and active recreation. The proposal strengthens local infrastructure, and contributes to providing a connected network of high quality multi-functional recreation hubs. Within the strategy, the Open Space Action Plan identifies a priority need to develop and promote outdoor activity hubs connected by greenways to improve recreational infrastructure, increase participation and improve satisfaction with facilities. From a Landscape perspective, good consideration seems to have been given to the siting of the facility, and the proposal appears to be sympathetic with the historic and ecologically sensitive environment. Commendable thought has been given to sustainable drainage, and the need to reduce environmental impact through sensitive design and good building practice.

The National Forest Company supports the principle of establishing an outdoor recreation hub within the Calke Estate, which helps to support one of the key aspirations of the NFC. The NFC requests that any loss of trees is minimised, with the specific detail of new tree planning conditioned. The proposed reintroduction of wood pasture to Raggs Close is welcomed and a condition to secure this is recommended. The design of the building is welcomed, and the introduction of timber including elements sourced from the estate will help to assimilate the building it to its surroundings. The use of timber and the incorporation of renewable and low carbon energy generation are encouraged in the National Forest. The proposed development will encourage greater participation in outdoor recreation which the NFC welcomes. The facility has the potential to be another key tourism destination within The National Forest and one which is strongly aligned to the aims and aspirations of the Forest.

Historic England (HE) notes that the access route favoured by the National Trust does require alteration to the registered park, requiring a new estate type road off the main drive leading into the HUB site adjacent to Betty's Pond. The access route options have been discussed in detail with the National Trust and the arguments presented for explaining why access off Staunton Lane is not possible. Creating the main access off the existing entrance road will cause some harm to significance of

the registered park through the creation of a further road, and a breach in the boundary wall which clearly separates the historic parkland from the wider estate. This is less than substantial harm. In this circumstance the NPPF advises on the need to balance public benefits against the harm (para 134). There are wider public benefits associated with providing public access and associated facilities to the park and with removing ad hoc parking from Raggs Close. HE considers that the National Trust has minimised the impact of the road on the parkland through its design and location. The proposed Hub building may be visible from within the registered park in those months when the trees are not in leaf. Its impact has also been minimised through careful design which aims to make the building visually recessive. Thus on balance HE has no in principle objection to make to the proposed Hub and access road on heritage grounds. Some detailed comments are provided on the scheme in terms of the mounds created in order to screen the car parking area and to minimise the off-site removal of material. However, this is considered to be at odds with the existing landscape character of this area of the site and this level of mitigation is considered to be excessive.

The Development Control Archaeologist confirms that the site does not contain any known archaeological assets, and as such there is little likelihood of significant archaeological impacts from the development proposals, and there is no requirement for archaeological works to be undertaken.

The Highway Authority has considered the proposal in detail and note that the submitted Transport Implications Technical Report is some 4 years out of date. However, as there are no controls over the number of visitors which can visit the site and the Highway Authority consider that much of the proposed development, such as toilets, café, cycle paths and formal car parking etc. would cater for existing visitors to the site, although it is understood that the intention would be to attract new visitors also. Whilst out of date, the submitted Report has considered the various increases in traffic which may be generated as a result of the provision of additional attractions and the Highway Authority considers that it would be difficult to demonstrate that approval of the proposal would result in such an increase in vehicle movements that an objection on highway safety grounds could be sustained.

Derbyshire Wildlife Trust considers that the main issues and concerns, as a result of the proposed development to be; Impact on veteran trees and invertebrates; Impact on protected species; Loss or impact on wetland and developing grassland and other habitats; Increase in human disturbance. Overall subject to the mitigation outlined within the submitted surveys there is no objection to the proposal.

Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

The Environment Agency has no objection to the proposed development but note that a permit may be required for the discharge of the sewerage treatment plant to surface waters.

Severn Trent Water has no objection to the proposal.

The Peak and Northern Footpaths Society have no objection to the proposal. They note that some views from Footpath 12 Ticknall will be affected but overall as screening is planned and the overall gain to walkers from the new facilities would outweigh any loss of enjoyment of the use of the footpath.

Responses to Publicity

The Derby and Derbyshire Local Access Forum have questioned the increase in traffic, and the developments impact on local roads, whether the site is closer to a bus route than the current facilities, and whether there will be a traffic free route between the hub and Ticknall.

Ticknall Parish Council raises the following points:

1. No provision has been made to alleviate the parking impact on Calke's neighbours in Ticknall village. The charging policy for parking encourages visitors to park in the village, which will only increase;
2. If passed then suitable behavioural signage should be erected encouraging cyclists to give way to pedestrians on public footpaths;
3. Concern at lack of parking on Staunton Lane; this lane is extremely narrow and there has been an increase in parking on the lane from the original track;
4. The PC acting on the advice of the Council is working to set up a Community Liaison Group, and if successful some of the concerns mentioned could be solved. The PC is not opposed to cycling or leisure facilities in Calke Park;
5. Is the size of the proposal really necessary? The amount of parking will ruin an unspoilt area with damage to ecology.

12 letters/e-mails of objection have been received, raising the following concerns/points:

- a) The traffic data should be more up to date as traffic has increased since 2012;
- b) Increase in speeding and additional traffic problems in Ticknall;
- c) Concern at an increase in unscrupulous visitors parking in the village hall car park and across peoples drives due to the fees for parking;
- d) A new entrance must be found closer to the amenities to avoid congestion on the roads of Ticknall;
- e) The area for the Hub has hot springs;
- f) The National Trust do not properly maintain their woodland adjacent to local residents and should pay more attention to local residents;
- g) Creating the car park will have a detrimental effect on the wildlife and ecology and many trees will be lost;
- h) The National Trust were asked to maintain the 'mystery' of the park, this will not be done with the Hub;
- i) The demolition of a wall sets a precedent for other walls to be demolished, it was listed for a reason and therefore should remain;
- j) Had an ecological report been undertaken;
- k) Encouraging cyclists, who never give way to pedestrians will ruin the atmosphere of the park for walkers;

11 letters of support have been received, which note the following points:

- a) The proposal will allow more people to access the park, and to experience the outdoors and areas of ancient woodland;
- b) This will encourage more people to get out and enjoy the countryside;
- c) The current parking restricts access to the outer areas of the park from many visitors;
- d) The proposal will spread visitors more evenly across the park and will be of benefit to those with reduced mobility, walkers and dog owners;
- e) This seems to be a well-hidden spot for the hub;
- f) It is a good idea to have toilets and refreshments at the hub;
- g) This will prove to be an area for gaining a greater knowledge of the natural and industrial history of that part of South Derbyshire;
- h) This will enhance the location and provide much needed facilities for visitors to Calke;

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); INF6 (Community Facilities); INF7 (Green Infrastructure); INF8 (The National Forest); INF9 (Open Space, Sport and Recreation); INF10 (Tourism Development).
- 1998 Local Plan (saved policies): EV1 (Development in the Countryside); EV9 (Protection of Trees and Woodland); EV11 (Sites and Features of Natural History Interest); EV12 (Conservation Areas); EV13 (Listed or Other Buildings of Architectural or Historic Importance); EV14 (Archaeological and Heritage Features); EV15 (Historic Parks and Gardens).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: BNE5 (Development in the Countryside); BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage).

National Guidance

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

Planning Considerations

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

- Principle of development;

- Design, layout and heritage;
- Ecology and biodiversity; and
- Highway safety.

Planning Assessment

Principle of development

Policy S1 sets the sustainable growth strategy for the District, which is explicit in its support and encouragement for new tourism developments, and encouraging healthy lifestyles through leisure pursuits, the provision of open space and providing greater accessibility to this area for residents. Indeed policy INF9 highlights the fact that the current provision of open space, sports and recreation facilities in the District is not sufficient to meet local needs and seeks to encourage the creation of new and enhanced facilities. Within the National Forest the provision of leisure opportunities for local communities and visitors is supported by policy INF8 with general support for tourism development outlined in policy INF10.

The proposed outdoor Hub would be a further enhancement of the existing leisure provision at Calke and would encourage further use of this key site within the National Forest. The proposal would help to encourage and facilitate healthy lifestyles for both existing residents and visitors a key component of the strategy for the District, as highlighted in the response received from the Council's Open Space and Facilities Manager. In principle therefore the proposed works are considered to be acceptable, supporting one of the main strategies of the District. This however, subject to consideration of the detailed matters discussed below.

Design, layout and heritage

The proposal site is just outside the Grade II* Listed Registered Park/Garden at Calke, and is about 860m from the Grade I Listed Calke Abbey. The site is within the setting of these highly designated assets, and the Council has a duty to have special regard to preserving the setting of these assets though carefully considering any new development that could affect their setting and significance. In addition local plan policies – saved, adopted and emerging, require new development in registered parks and gardens or affecting the setting of listed buildings to protect, conserve and, where possible, enhance heritage assets' settings. The NPPF is also explicit in its support for the conservation of heritage assets. Consideration therefore needs to be given to the impact of the proposal on this important group of assets, and whether there is an impact on the registered park, and to what extent any impact can be mitigated.

The approach into the Calke Estate along the entrance drive is a long winding route, which partly gives the sense of mystery and intrigue which is part of the significance of the estate and its buildings. There are no glimpses of the house from the main drive until after the proposed Hub. The location of the proposed Hub within the estate is a result of a thorough, well informed and detailed options appraisal undertaken taking into account the sensitive nature of the estate and its heritage assets.

In terms of the impact of the development on the registered park, this is primarily as a result of the creation of vehicular access and egress from the main estate drive and the requirement to form a breach in the listed wall to provide access to the Hub site. The listed wall forms the boundary of the registered park. In considering this impact the proposal has been designed to provide a one-way traffic routing system, to the Hub area, which enables the overall width of the vehicular access to be minimised to a single carriageway and as such the loss of any significant vegetation and trees is minimised as is the breach in the listed wall to approximately 5m. In terms of the breach in the wall, the significance of the wall in this location lies in its alignment, detail and character of construction rather than its inherent historic value. As such a relatively small breach in the wall (similar to that already created at the gated access to the Calke Explore form where the exit track is proposed) is not considered to harm the significance of the registered park.

In the short term the drive would appear as an obvious new addition to the park, however this impact would soften as the drive blends in with the landscape within this heavily wooded area. It is not considered that the access road would cause substantial harm to the registered park, subject to an appropriate surfacing material for the drive, and the implementation of a sensitive scheme of signage.

The main element of the proposal is located to the west of the registered park, within an area of plantation woodland and is comprised of the Hub building, the car parking and overflow car parking area. The Hub building itself is proposed as a simple linear building with a split pitched roof which has been designed as a response to its setting in order to sit quietly within the landscape. The building merges into the wider landscape when viewed from the vehicular approach into the site, and as such the building sits unassumingly within the surrounding landscape against a backdrop of established woodland. The materials proposed have been chosen to reflect the buildings surroundings, with the timber cladding sourced from the estate itself. Overall the building is considered to be well-designed, and sympathetic to its setting.

The main car parking area is proposed close to the main Hub building, arranged in small blocks along the winding access and circulation road interspersed with landscaping and drainage. An area of car parking is also proposed to the west of the Hub area within Little Town Leys, this area is currently open pasture where additional formal parking is proposed along with an area of overflow car parking. The main parking areas would be provided using a plastic grid infilled with gravel, with the overflow area provided with a form of 'grasscrete'. This area of parking would be screened from the north with screen planting, and small bunds. In the interests of ensuring that these additional landscape features do not impact detrimentally on the landscape character in this area it is considered appropriate and necessary to condition their detail as the creation of large new bunds would be inappropriate in this landscape setting and small variations in land levels with woodland planning is considered the most appropriate approach.

The Hub building and its infrastructure would be seldom visible from the registered park, main drive and wider landscape, even in winter without leaf cover due to the heavy tree cover and recessive design of the building. Overall it is considered that the location of the Hub is acceptable in terms of its impact on the park, and the proposed works are not considered to cause detrimental harm to the significance of

the nearby listed assets and would not diminish the immediate or wider setting of these assets. It is therefore considered that the proposed works would cause 'less than substantial' harm to the Registered Park & Garden as a whole as well as 'less than substantial' harm to the setting of these heritage assets. When this small degree of harm is weighed against the public benefits achieved through the provision of a new visitor attraction, relieving pressure of the main historic area of the estate, and increasing public access to the wider estate the proposal is considered to be acceptable from a heritage and design perspective.

Ecology and biodiversity

The detailed assessments undertaken consider that the main impacts of the proposal would be on trees, veteran trees and invertebrates, protected species, and the existing wetland created in 2004 following the clearance of a Poplar plantation. The proposed access road to the Hub extends partly through the Calke Park SSSI.

The proposal includes the removal of pine and broadleaved trees to facilitate Hub building, main car parking, access road and western car park. Development is also proposed in part of the existing wetland. However, in the context of the site as a whole these changes in habitat extent would not significantly diminish the ecological value of the site and in places there could be some benefits as a result of improved management of this part of the estate.

The mitigation measures identified include the use of no dig construction of roads, the protection of veteran trees and retained habitats through appropriate fencing, new and enhanced wildlife habitats, and the protection and avoidance of protected species. These measures would be secured through appropriate conditions and would ensure that the development would not result in any detrimental impacts on ecological interests and would lead to biodiversity enhancements outside of the SSSI.

The establishment of a hub, with car parking and new trails through the site would inevitably increase the level of human disturbance, and this may have a slight impact on the breeding activities of birds and possibly use of the site by mammals. However, these impacts are considered to be limited to the immediate area and would be highly variable depending upon the season. Overall the development is supported by Derbyshire Wildlife Trust.

In terms of the arboricultural impacts of the development it is acknowledged that the proposal would result in the loss of a number of trees along the proposed access route, site of the building and the proposed car parking area. The access road has been located so as to avoid any impacts on the existing veteran trees within the SSSI, and where this is not possible the drive would be constructed in a 'no dig' construction.

Whilst a number of trees would be removed from within the area proposed for the Hub, and car parking, there is no fundamental objection to this given the species and/or the significance of the specimens, and a detailed landscaping scheme is considered appropriate in rebalancing this loss. In addition, the proposals include extensive re-planting around the central and western car parking and Raggs Close to replace trees lost and introduce both species and structural diversity into the new

landscape. As part of the detailed design following visits to the site with the Council's Tree Officer it is considered appropriate to identify the exact route of the road, tracks and parking areas on-site in order to minimise and agree to any loss of trees and the ensure that the route has a minimal impact.

Highway safety

The proposed Hub is located within the confines of the Calke Estate, with no alterations proposed to the existing access and egress arrangements currently in place for access to and from the highway network. As detailed above, an assessment has been undertaken of the existing site accesses, and nearby junctions.

The assessment was undertaken at a time when the visitor numbers were around 250,000 (2012), with current estimations indicating that the estate currently attracts over 300,000 annual visitors. The 2012 assessment was based on three predicted scenarios of an increase in visitors to 350,000, 450,000, and 550,000 visitors annually to allow for a robust assessment of potential increase in visitors to the estate. Research undertaken by the National Trust indicates that there is likely to be an increase in visitors of between 50,000 and 100,000 over the next ten years for various reasons including an increase in numbers visiting heritage attractions in general and Calke's location close to three large and expanding cities. This predicted increase in numbers is not attributable to the current proposal as it is envisaged that the development would cater for existing visitors to the estate rather than attract a significant number of new visits. Of the existing visitors to the estate around 50% visit Calke to use the outdoors and explore the parkland rather than the house and gardens. The current application seeks to relieve visitor pressure on the main heritage core of the estate. It is certainly noteworthy that there are currently no restrictions on the number of visitors to the estate.

The assessment indicates that each of the junctions assessed would safely operate within capacity at the worst-case scenario (i.e. with an addition of 250,000 visitors more than current visitor numbers). The assessment has been scrutinised by the Highway Authority, which concludes that it would be difficult to demonstrate that the proposed hub and facilities would result in such an increase in vehicle movements so as to have a severe impact on the existing highway network and consider that the proposed development is acceptable in highway safety terms.

The layout of the site provides for 140 formal parking spaces (including 10 disabled and 4 for longer vehicles), and an additional overflow area of 100 spaces. Whilst there are no specific parking standards for the type of facility proposed this level is considered to be generally appropriate and the overflow parking provision would enable potential demand to be accommodated within the site.

As with the recently approved application for a number of cycle tracks within the estate, a number of comments have been received from the Parish Council and local residents regarding the impact of the proposal on Ticknall village. However, the proposals are not considered to result in a demonstrable increase in the number of visitors to Calke or the likelihood of vehicles parking within the village. In any event as part of considering the highway safety implications of the proposal, the potential

for increased on-street parking in Ticknall is considered by the County Highway Authority to be inconvenience rather than an issue of highway safety and as such is not considered to be a material consideration that would weigh significantly against the proposal.

Other matters

Following the approval of the previous application for the formation of a new cycle track within the Estate, and at the request of this committee a 'Ticknall Community Liaison Group' has been set up in order to improve the relationship between the National Trust and the village. The group is comprised of two members each of the Parish Council, National Trust, and local residents, and a representative of the village hall. The first meeting of the group took place on 3rd February, and is scheduled to take place every two months. The group has the following purpose;

“To act as a sounding board to share experiences, knowledge and areas of common interest to promote understanding and a positive relationship between the local resident community of Ticknall Village and the National Trust Calke Abbey”.

The group aims to provide a positive communication channel between the local community and the National Trust, in particular to review issues relating to car parking and traffic management within Ticknall Village. Whilst this may not immediately solve the concerns of local residents it is certainly a positive outcome that the group has been set up, and acknowledges a commitment from all parties to improve relationships and address areas of concern.

Conclusions

It is considered that the proposals would comply with the general thrust of local planning policy and national guidance which aims to support and encourage new and existing tourist facilities within the District, with overriding support for new developments which support leisure activities, health and well-being. The proposal is considered to make a valuable contribution to the provision of multi-functional and accessible green infrastructure in the District, which weigh heavily in favour of the proposal.

Any harm to the historic environment and biodiversity as a result of the proposal is considered to be less than substantial, and can be suitably mitigated, with programmes and management plans required to ensure this before works can commence.

The proposal is considered to represent sustainable development which provides for the social needs of existing residents and visitors to the District, the environmental impacts of the development are not considered to be significant or substantial and where identified can be suitably mitigated. In addition, the proposal would continue to support the economic role that Calke plays within the District.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing numbers; 2961 01, 2961 02, 2961 03, 2961 04, 2961 05, 2961 06, 988 200 Rev B, 988 201 Rev B, 988 202 Rev C, 988 203 Rev C, 988 204 Rev B, 988 205, 988 206 Rev A, 988 207, 24693-01 Ver 3, 24693-02 Ver 2, 24693-10 Ver 3, 24693-11 Ver 2, 24693-10 Ver 3, 24693-14 Ver 2, 24693-15 Ver 2, 24693-16 Ver 3, 24693-20 Ver 2, 24693-80 Ver 3, and the following documents and mitigation measures contained therein; Flood Risk Assessment (24693 October 2016), Invertebrate Survey of Selected Trees (September 2016), Ecological Surveys (September 2015). Unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, and any proposed temporary traffic signing or restrictions.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

4. No development shall take place (including ground works and vegetation clearance) until a tree management plan (TMP) has been submitted to and approved in writing by the local planning authority. The TMP shall incorporate the following;
 - a) A tree protection plan identifying where protective fencing is to be installed;
 - b) A tree removal plan identifying which trees are to be removed along the route;

- c) Identification of the precise locations of the different types of road and track construction within the site.

The approved TMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance.

- 5. No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following incorporating the measures outlined within the ecology report;

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection/buffer zones" to include ponds, hedgerows, woodland, trees other habitat as required.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction.
- d) The location and timing of sensitive works to avoid harm to habitats and species.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as required).
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the preservation of the species.

- 6. No development shall take place (including ground works and vegetation clearance) until a landscape and ecological management plan (LEMP) for all retained and created habitats has been submitted to and approved in writing by the local planning authority. The LEMP shall include the recommendations and information from the ecology and invertebrate reports along with the following:

- a) Description and evaluation of features to be managed / created
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 10 year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

Reason: In the interests of protected species recognising that initial ground clearance work could harm protected species without appropriate mitigation and methods of working as recommended by Derbyshire Wildlife Trust.

7. No development shall take place until a method statement regarding the presence of White-Clawed Crayfish occurring during the works, has been submitted to and approved in writing by the local planning authority. Such a scheme shall include details of the following:
 - a) The timing of the works;
 - b) The measures to be used during works to minimise the risk of introducing crayfish plague;
 - c) The measures to be used during works to minimise risk to native White-clawed crayfish
 - d) Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrates they are qualified for the activity they are undertaking;

Specific measures should also be employed to reduce the risk of mortality of any amphibians and reptiles within the application boundary during the operational phase of the proposed works. This can be achieved by inserting modified kerbs adjacent to any roadside gully pots throughout the developed site to reduce the risk of amphibian/reptile mortality.

Reason: In the interests of protected species recognising that initial ground clearance work could harm protected species without appropriate mitigation and methods of working as recommended by Derbyshire Wildlife Trust.

8. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers (and other mammals) from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:
 - a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) open pipework greater than 200 mm outside diameter being blanked (capped) off at the end of each working day.

Reason: In the interests of protected species recognising that initial ground clearance work could harm protected species without appropriate mitigation and methods of working as recommended by Derbyshire Wildlife Trust.

9. Prior to the commencement of building works on site samples of the external materials to be used in the construction of the hereby approved buildings and structures shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the buildings are in keeping with its surrounding in the interest of the character and visual amenity of the area.

10. Prior to the installation of the road, access and cycle tracks precise details, specifications and, where necessary, samples of the road, access and cycle track surfacing material has been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the locality generally.

11. Prior to the commencement of building works or earthworks on site details of earthworks and land profiling have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.

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

12. Prior to the first use of the development or in accordance with a phased development programme first submitted to and approved in writing by the Local Planning Authority the car parking and manoeuvring space shall be laid out in accordance with the application drawings and maintained throughout the life of the development free of any impediment to its designated use.

Reason: To ensure that adequate parking provision is available.

13. Prior to the first use of the development a scheme of landscaping, including the restoration of Raggs Close shall be submitted to and approved by the Local Planning Authority.

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

14. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the site or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

15. Notwithstanding any details submitted or 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; prior to the first use of the development a plans indicating the positions, design, materials and type of fencing/boundary treatments to be erected (including around the proposed swales) 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 first use of the development 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 appearance of the area.

16. Prior to the installation of any external lighting, a Lighting Strategy shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding protected species as recommended by Derbyshire Wildlife Trust.

17. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: In the interests of the preservation of the species.

Informatives:

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

2. The County Flood Risk Team advises:

- Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
- Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
- The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
- Due to the historic mining and mineral extraction operations in Derbyshire,

adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.

- Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface

water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

3. The applicant should be aware that, to satisfy Condition 3, a routing plan will be required. The Highway Authority would not accept routes which direct construction traffic along Staunton Lane.

4. The application site is affected by a number of Public Rights of Way, as shown on the Derbyshire Definitive Map (see attached plan). The routes must remain unobstructed on their legal alignments at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Communities Department at County Hall, Matlock.

Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form. If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council. To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping-up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

5. Regarding the proposed sewage treatment system discharging to surface waters, a permit will be required if the maximum daily volume of discharge will be greater than 5 cubic metres. If the volume will be less than 5 cubic metres then the General Binding Rules will apply. For more information see:

<https://www.gov.uk/permits-you-need-for-septic-tanks/general-binding-rules>

6. Prior to the installation of any signage within the site it is recommended that you agree a Signage Strategy with the Local Planning Authority to include

the details, type, number and materials of construction of any signage associated with the development and to ensure that no express consent is required under the Control of Advertisement Regulations.

Item **1.2**

Ref. No. **9/2016/1124/L**

Applicant:
Mr Stewart Alcock
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Ticknall
Derby
DE73 7LE

Agent:
Miss Jane Willars
Allan Joyce Architects Ltd
16-20 Bath Street
Nottingham
NG1 1DF

Proposal: **LISTED BUILDING CONSENT FOR THE DEMOLITION OF SECTION OF EXISTING PARK BOUNDARY WALL TO PROVIDE ACCESS TO A NEW OUTDOOR HUB AND ASSOCIATED INFRASTRUCTURE AT CALKE ABBEY MAIN STREET TICKNALL DERBY**

Ward: **REPTON**

Valid Date **09/11/2016**

This application is submitted pursuant to the creation of a breach in the listed wall to facilitate the provision of an access road to the proposed Hub site. The merits of the case are examined in the companion application for the Hub development itself under 9/2016/1095 above.

Recommendation

GRANT listed building consent subject to the following conditions:

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

 Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall relate to the section of wall detailed on Drawing No 24693-10 Version 3.

 Reason: For the avoidance of doubt.
3. No demolition shall take place until a contract for the implementation and construction of the development approved under planning permission ref: 9/2016/1095 has been secured. If for any reason that development does not then commence within 6 months of the demolition, a scheme for the rebuilding of the section of wall demolished shall be submitted to and approved in writing by the Local Planning Authority. The wall shall then be reconstructed in

accordance with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.

Reason: To ensure all reasonable steps have been taken to ensure the new development will proceed after the demolition of a section of the listed wall.

Informatives:

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

Item **1.3**

Ref. No. **9/2016/1016/MSF**

Applicant:
Mr Davidson
C/O Agent

Agent:
Miss Carmelle Bell
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Napier Road
Reading
RG1 8BW

Proposal: **PART DEMOLITION AND EXTENSION OF EXISTING INDUSTRIAL UNIT TOGETHER WITH NEW ACCESS, ASSOCIATED WELFARE FACILITIES AND EXTERNAL WORKS AT FACCENDA FOODS SCROPTON ROAD SCROPTON DERBY**

Ward: **HILTON**

Valid Date **28/09/2016**

Reason for committee determination

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

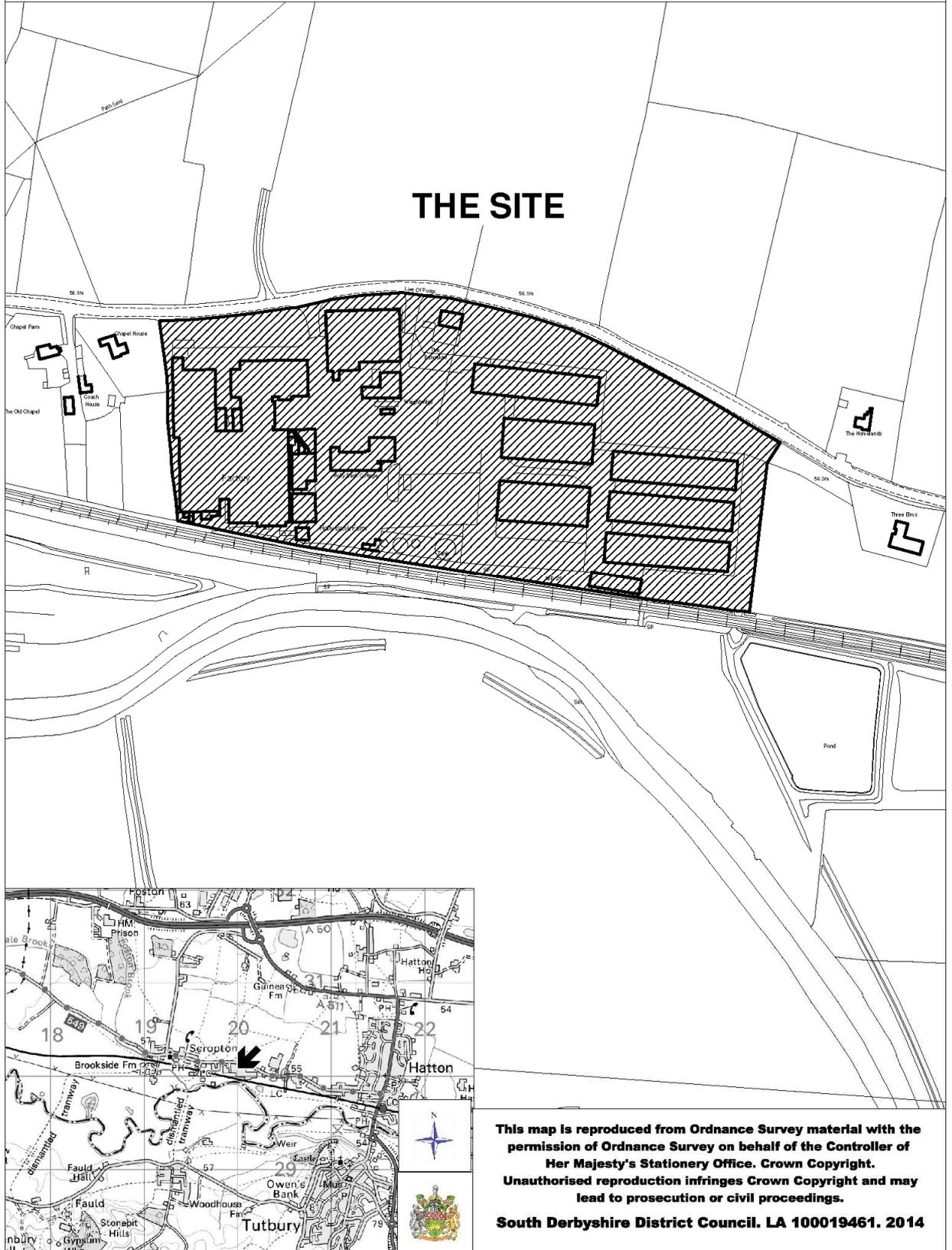
Site Description

The application site is an established food processing factory located on the southern side of Scropton Road in the open countryside. There are significant numbers of trees on the site and frontage to Scropton Road, some protected by preservation orders. Residential properties lie immediately to the west of the site and to the east. The site is bounded on its southern boundary by a railway line and the River Dove lies beyond. The site is within Flood Zone 3a. Foston and Scropton Footpath 22 crosses the site although the current proposals do not affect its line though some of the existing buildings towards the western side of the site obstruct its route.

Proposal

The application is in full and is to demolish a number of the buildings on the site and erect a new factory for processing purposes consisting of an 8,230 sq m, with the bulk of the building measuring approximately 108m x 75m plus additional projections and a height to eaves of approximately 10.4m (12.1m to eaves). The building would

9/2016/1016 - Faccenda Foods, Scropton Road, Scropton, Derby DE65 6PS



be metal wall profiled cladding, metal roof system with elements of glazed and louvred panels. A new access is proposed to be created from Scropton Road east of the existing access. Off-street parking for the parking of 253 vehicles would be provided on site as well as a lorry park for 20 lorries. The proposals would involve the removal of a significant number of trees, some currently protected by TPO, with the intention to then provide new planting to mitigate the impact of the development.

The applicant has indicated that this is Phase 1 of their wider aspirations to redevelop the whole of the site to consolidate some of their operations in Scropton, to reduce travel between different sites as well as to ensure that moving forward they are able to provide appropriate facilities required in connection with regulation and legislation relating to the processing of poultry. In terms of employment this development would lead to 200 new employees at the site, bringing the total to 650.

Applicant's supporting information

The Arboricultural Assessment identified seven 'A' Category items, of high quality and value, and 75 Category 'B' items, of moderate quality and value, out of a total of 128 items. These items have been prioritised for retention. The total sum of tree loss associated with the proposal equates to 33 individual trees with the majority of these considered low quality (4 High, 14 moderate and 15 low). The landscape proposals provide appropriate mitigation planting to offset the loss of these items. Existing trees identified for retention on the appended Tree Protection Plan would continue to be managed in accordance with BS 5837:2012.

The Design and Access Statement describes the sites physical context and includes evaluation of the proposed design and layout. The design was developed on the basis of locating the building to the middle of the site, providing improved car parking and access, clearing disused buildings and improving landscaping. The use, amount of floorspace proposed is included and facilities streamlined and consolidated. The scale and appearance has been designed to limit the height and visual impact together with appropriate landscaping. Public transport and the access improvements described.

The Flood Risk Assessment states that the site is within Flood Zone 3 but is protected by Flood Defence Works to the River Dove and Foston Brook undertaken by the Environment Agency in 2013/14. The proposed drainage scheme is designed for a 100 year event plus 30% for Climate Change and would take the roof water to an on-site soakaway / swale with an overflow to the Faccenda Pond areas to the south of the railway line. Outflows to the River Dove would be limited to 'greenfield flow'. The floor level of the new building would be set at 57.4m to afford a robust level of flood protection. Safe access / egress routes have been identified together as an evacuation plan in the event of overtopping/ breaching.

The Heritage Desk Based Assessment concludes that whilst change over the last half century or so has resulted in a significant reduction in the potential for the presence of buried archaeological remains within the site, there is some limited potential for such remains in areas where previous groundworks have required only shallow foundations or limited surface treatment. The report concludes that there

would be no measureable change to the settings of the heritage assets Old Hall, The Church of St Paul and Tutbury Castle that would affect their heritage significance.

The Landscape and Visual Impact Assessment considers that the proposal would not have a substantial impact on the visual amenity of Public Rights of Way (especially on elevated landform to the southeast - south). In close to medium range the landscape is considered to have the capacity to accommodate the change at the site, as the proposal would benefit from the well-established tree groups that surround the site, and is further mitigated by the enclosed and well-wooded landscape. The assessment concludes the proposal would not cause undue visual intrusion; will not cause undue harm to important natural landscape features, nationally designated landscape or proposed locally important landscape; and will not be inconsistent with local character or impact upon areas judged to have a high landscape value and visual sensitivity to the proposal in the round.

The Noise Assessment focuses on the operational phase of the development and the impact of any increased noise associated with the change in traffic flows directly associated with the proposed development. The assessment uses traffic data which was provided by David Tucker Associates transport consultants, which undertook the transport assessment which supports the application. To produce an increase of 3dB the current traffic level would have to increase by 100%. It is considered that the proposed development vehicular movements will result in an increase in noise level which is under 1dB and not perceivable. The external area of the plantroom to the north end of the building would house 2no. air cooled evaporative condensers and 6no. vacuum pumps. The external plant compound to the south west of the block would house 4no. VRF condensers. It recommends that new fixed plant items be selected and/or attenuated such that they meet the plant noise emission requirements of the local authority. These are proposed for location at the centre of the site at significant distances from receptors. The potential impacts as a result of the demolition and construction phase have been assessed and this has considered the impacts upon existing receptors. The closest local receptors are located within the neighbouring residential dwellings within 35m of the Site boundary. A site-specific Construction Environmental Management Plan (CEMP) would be prepared and implemented to assist in reducing potential noise impacts. The residual construction noise impacts are expected to be local, adverse, but only temporary in nature and of small magnitude and minor significance.

The Planning Statement describes the site and the proposal of phase 1 and the overall masterplan. It states the current number of employees is 450. The proposed redevelopment will result in Faccenda having the operational capacity to hire an additional 200 employees, bringing the total staff numbers to 650. All the relevant planning policies are reviewed and supporting documents summarised. It concludes that the layout, design and external appearance of the proposed upgraded factory has been developed so that is compatible with its surroundings and adjacent properties and would reduce visual impact and overall massing of the existing development. The redevelopment proposals would also have a number of associated benefits for Faccenda namely it would: make efficient use of an existing industrial Site, delivering a more efficient process with modern plant and process flows; increase employment by 200 people; improve staff welfare for the employees; deliver better hygiene, better animal welfare and better environmental / waste

treatment; and deliver a modern factory that complies with regulations and legislation relating to the processing of poultry.

The Waste Management Plan considers ways that waste can be reduced and site-gained materials can be reused or recycled as part of the project. It is a live document that is reviewed and updated throughout the project. It includes the Environmental Policy including waste minimisation targets and monitoring.

The Transport Assessment reviewed the existing conditions in terms of the site accesses and local and national road networks. The public transport facilities in the vicinity have been assessed together with walking and cycling routes. Accident data has been assessed and there are no existing accident blackspots or clusters within the vicinity of the site which require mitigation as a result of the development proposals. The creation of a new access junction from Scropton Road is proposed to the east of the existing access with visibility splays of 2.4m x 160m. There are 57 formal spaces at present on site and 253 formal parking spaces are proposed together with a lorry parking area for around 20 HGVs. The assessment concludes the impact of the development will not occur during typical peak periods and although there will be an increase in HGV traffic, the majority of movements will route to the west of the site and will not therefore impact on the junctions within Hatton and Tutbury. On this basis, the impact of the development will not be 'severe' in accordance with NPPF paragraph 32.

The Travel Plan describes the site's context and the public transport facilities and walking and cycling routes in the vicinity. It sets out the objectives and measures generally.

Planning History

There have been numerous planning applications on the site in the past.

Responses to Consultations

The County Highways Authority has no objections in terms of the submitted Transport Assessment and the access drawing which demonstrates a 2.4m x 160m visibility sightlines based on 50mph observed speeds. Conditions are recommended in respect of a construction management plan, access and car parking, manoeuvring space and Foston and Scropton footpath 22.

The County Flood Team has no objection and confirms that they are developing a flood mitigation scheme for the area. A swale and overflow to an existing pond feature is included in the drainage design to manage surface water from phase one.

The County Archaeologist considers that there may be potential for below ground archaeological remains and recommends a condition requiring a written scheme of investigation.

The County Minerals Authority has no objections.

Derbyshire Wildlife Trust considers that sufficient ecological survey information has been provided. They have no objection and recommend conditions in respect of works within the bird breeding season and submission of a lighting strategy.

Severn Trent Water has no objections subject to a drainage condition.

The Environment Agency has no objections subject to conditions relating to the Flood Risk Assessment and finished floor level.

The Environmental Health Officer has no objection subject to conditions during the construction phase which restrict hours of demolition and construction works, deliveries and the use of pumps or generators. They also request that when complete that restrictions on noise levels should any of the proposed buildings have any fixed plant or equipment, such that they do not exceed background noise levels at the boundary with the nearest residential property.

The Council's Contaminated Land Officer has no objections subject to a precautionary condition with regard to contaminated land.

Network Rail has no objection subject to conditions relating to drainage, demolition and construction works, tree planting and lighting.

East Staffordshire Borough Council has no objection.

Peak and Northern Footpaths states that the north western corner of the site is crossed by footpath 22 Foston and Scropton and there are no objections provided the path is diverted.

The Council's Tree Officer states that some trees are protected by TPO 159. The removal of trees is considered acceptable and the additional buffer planting is welcomed. Conditions are recommended to secure additional tree planting on the roadside and protection of retained trees during demolition and construction.

Foston and Scropton Parish Council objects to the application as there are concerns regarding the Traffic Assessment (TA) which does not address the impact of additional traffic on the village and the use of Watery Lane. The TA states that Scropton Road is capable of accommodating 10,000 vehicles per day which cannot be the case without destroying the village and there are concerns the new traffic route around the village green would be difficult for HGVs. The Noise Assessment considers the impact would not be significant, however, with the increase in vehicles and staff, noise pollution is a concern. There are concerns about the amount of waste leaving the site and the associated odour. The number of trees to be removed is a concern and whether they are protected trees.

Hatton Parish Council objects on the basis of the increase in HGV movements through Hatton on Scropton Road which has no pedestrian crossing. The road is used by parents for the school, emergency vehicles accessing the A50 and has a weight limit of 7.5 tonnes. Access via Watery Lane and Leathersley Lane is provided so no vehicles should come through Hatton. Scropton Road has limited parking so

on street parking restricts access and the factory should abide by its own transport policy and if approved this should be conditioned.

Responses to Publicity

Ten objections have been received, raising the following concerns/points:

- a) Would the factory go to 24 shifts?
- b) The factory should be relocated to Dove Valley Park which has suitable transport links and mains sewerage.
- c) Effluent treatment has been an issue at this facility.
- d) The proposal involves an additional 400 car movements a day and 26 HGVs each day and the increased use of the mini roundabout on Scropton Road by HGVs would lead to damage and further congestion as they can't go round it.
- e) The increased use of the very narrow road with parked cars is totally inappropriate.
- f) The existing use of Watery Lane by HGV traffic has led to damage to verges and increase risk of flooding.
- g) The noise of existing HGV traffic is a blight on the quality of life of residents of Scropton.
- h) Odour from the factory is unpleasant and effects residents.
- i) The Traffic Assessment does not address the impact of additional traffic on Watery Lane.
- j) If approved a S106 should secure bringing Watery Lane up to a standard for use by HGVs.
- k) Watery Lane is subject to flooding and damage to verges increase the risk.
- l) The junction of Scropton Road and A511 may not be suitable for increases to HGV traffic and should be assessed in detail.
- m) There was insufficient consultation with residents as part of the application.
- n) The shifts pattern of employees makes the use of public transport unlikely.
- o) Scropton has no bus service and the nearest bus stop is in Hatton.
- p) Three planning applications were made in 2014 and others in the 5 years prior to this and the cumulative effect of these together with the industrial nature of the site should be taken into account.
- q) The increased use of Watery Lane for HGVs would be dangerous for other road users.
- r) The Noise Assessment does not include the noise of HGVs on Scropton Road.
- s) Any decision should be consistent with other decisions which restricted hours of use (9/2015/0855 and 9/2015/0092) improvement to the junction (9/2013/0342).
- t) The existing factory causes light pollution and no screening is proposed between the new car park and the boundary with four properties.
- u) The length of the proposed factory runs the length of their garden and would be a complete invasion of their privacy, with noise from cars and staff.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1:

S1 (Sustainable Growth Strategy)

S2 (Presumption in Favour of Sustainable Development)

S6 (Sustainable Access)

E2 (Other Industrial and Business Development)

SD1 (Amenity and Environmental Quality)

SD2 (Flood Risk)

SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure)

SD4 (Contaminated Land and Mining Legacy Issues)

SD5 (Minerals Safeguarding)

BNE1 (Design Excellence)

BNE2 (Heritage Assets)

BNE3 (Biodiversity)

BNE4 (Landscape Character and Local Distinctiveness)

INF2 (Sustainable Transport)

- 1998 Local Plan (saved policies):

EV1 (Development in the Countryside)

EV9 (Protection of Trees and Woodland)

EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2:

BNE5 (Development in the Countryside)

BNE7 (Trees, Woodland and Hedgerows)

National Guidance

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

Local Guidance

- SPG - Industrial and Office Design and Layout

Planning Considerations

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

- The principle of development;
- Landscape and visual impacts;
- Highway safety impacts;
- Biodiversity;
- Design;
- Amenity; and
- Other matters

Planning Assessment

The principle of the development

The application site is an established food processing factory in the countryside having evolved over time from a farm. Policy E2 of the Adopted Local Plan Part 1 states that the development of land for business will be permitted where, amongst other things, it is an existing business expanding. It also states that development should be in scale with the existing built development and should not give rise to undue impacts on the local landscape, natural environment or cultural assets.

Saved Policy EV1 of the 1998 Local Plan states that outside settlements new development will be permitted where, amongst other things, it is unavoidable in the countryside and the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. It also states that they should be designed to have as little impact as practicable on the countryside. The development is in connection with an expanding business on site and as it relates to the business in this location is considered to be unavoidable in the countryside with the design, albeit functional, being appropriate (see assessment below).

One of the most important considerations in regards to the proposals is the economic benefits that arise from the development. Faccenda, who recently took over the site, are a successful, privately owned company and they state that they have been supplying poultry to the UK market for over 40 years, supplying some of the largest poultry retailers with over 100 million chickens and turkeys per year. They state that they employ 3,500 people across the UK and provide employees with opportunities to learn and have a rewarding career with an average employee serving 8 years. The proposal would lead to 200 full time new jobs in Phase 1 alone and the Council's Economic Development Officer has advised that the investment in a modern state of the art facility should also secure the company and jobs in the area for the long term. He has advised that the food and drink sector has been highlighted in the newly adopted South Derbyshire Economic Development Strategy 2016-2020 as one of five key business sectors as central to the future success of the local economy in the District with only a small number of major businesses such as Faccenda with very large workforces. He also advises that expected population growth in the District will result in the need for high levels of new employment growth locally if out-commuting to job opportunities in neighbouring areas with the associated congestion issues is to be avoided.

The proposal would, therefore, allow the significant expansion of this local business on their existing site and would assist in economic regeneration and as such the proposals are considered to accord with these policies in principle.

Landscape and visual impacts

Policy S1 of the LP1 highlights that “it is essential that the District’s heritage assets, landscape and rural character are protected, conserved and enhanced”. Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics; with new developments expected to be visually attractive, appropriate, and respect important landscape, townscape and historic views and vistas. Further considerations are set out in Policy BNE4 where the character, local distinctiveness and quality of the District’s landscape will be protected through careful design and the sensitive implementation of new development.

The site is relatively flat and contains a number of significant buildings already as well as a number of smaller, former agricultural buildings. Significant tree cover is found on the northern frontage to Scropton Road as well as within the site (some protected by TPO) which reduces the visual impact on approaches into the village. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which looks at the impact of the proposal on the landscape. It concludes that the proposal would not cause undue visual intrusion, will not cause undue harm to important natural landscape features, nationally designated landscape or proposed locally important landscape, will not be inconsistent with local character, and will not impact on areas judged to have a high landscape value and visual sensitivity to the proposal in the round. The LVIA has been independently reviewed by consultants commissioned by the Council who have advised that the LVIA submitted appears to follow the Guidelines for landscape and visual impact assessment, and appears thorough, accurate, and is generally supported from the field study. The consultants undertaking the LVIA review state that the submitted Landscape Mitigation and Green Infrastructure Strategy EDP Plan L5, proposes hedgerow planting along the north and east inner boundaries, understory planting on the north side and buffer planting on the east. Whilst generally agreeing with the LVIA recommendation they advise that increasing mitigation measures through additional screening should be provided, and this can be achieved through a suitably worded condition. It should, however, be noted that additional planting on the frontage would need to take account of the required visibility splays needed in connection with the new access and that Network Rail are particularly selective on the species of trees that can be planted adjacent to the railway.

Looking at the impact of the development as a whole it is considered that the proposal would maintain the intrinsic qualities of the surrounding landscape and subject to appropriate mitigation, would not lead to any undue adverse impacts, even taking into account the removal of protected trees.

Highway safety impacts

The application site lies in the countryside but on the eastern side of Scropton and also close to Hatton which lies to the east. Access to the wider road network would inevitably lead to additional HGV movements through the villages which are affected by their narrow nature in parts, on-street parking and tight junctions. Policy INF2 of

the Adopted South Derbyshire Local Plan Part 1 (2016) states that planning permission will be granted for development which, amongst other things, has an appropriate, safe and convenient access to and within the development. The National Planning Policy Framework (NPPF) at paragraph 32 states, amongst other things, that when making decisions account should be taken of whether safe and suitable access to the site can be achieved. The NPPF also makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. The Highway Authority does not consider the proposal would cause unacceptable impacts in terms of traffic generation, impact of the new access and adequate provision for access, parking and servicing has been provided. As such, notwithstanding the objections received, in highway safety terms, the proposal is considered to be acceptable.

Biodiversity and trees

The site is presently comprised of numerous industrial or former agricultural buildings as well as large expanses of hard surfaces and numerous trees. The application is accompanied by an Ecological Appraisal which was reviewed by the Derbyshire Wildlife Trust (DWT). In their reply they initially raised concerns about the survey work relating to bats but their concerns have been addressed and they have confirmed that they raise no objection subject to conditions relating to avoiding the bird nesting season as well as a scheme of lighting.

The proposal would result in the loss of a significant number of trees, some protected by preservation orders. These trees are prominent and their loss significant to the visual amenity of the area. However, the Council's Tree Officer advises that removal of trees to facilitate the proposed factory alterations is in principle acceptable, as it will not depreciate the overall value of the trees retained. He states that whilst landscape changes when looking at what may ultimately result from the implementation of further phases of development, if ultimately approved, will be considerable and the site transformed including the treescape. However, he states that the additional 'buffer' planting that would result from the development would be very welcome and additional trees should be provided on the roadside, in line with the current treescape. He states that frontage trees help mask stark industrial buildings and this development is a good opportunity to enhance the treescape. These comments echo those of the consultants who undertook a review of the LVIA and who recommend additional mitigation planting beyond those shown on the submitted plan. It is noted that Saved Policy EV9 (Protection of Trees and Woodland) of the 1998 Local Plan normally seeks to protect specimen trees from development, however, as set out above, it should be noted that additional planting on the frontage would be provided to compensate for the loss of trees and ensure long term visual impacts are mitigated, although any planting scheme would need to take account of the required visibility splays needed in connection with the new access and that Network Rail are particularly selective on the species of trees that can be planted adjacent to the railway.

In light of the above it is considered that, overall, subject to conditions, the impact of the development on ecology would be acceptable and comply with policy BNE3 of

the LP1, saved policies EV9 and EV11, and emerging policy BNE7, as well as the Habitats Regulations.

Design

In terms of design matters, the proposal is a large commercial building that by its nature is of a functional design relatively large and close to Scropton Road. However, the use of different coloured cladding, louvres and a small element of glazed curtain walling, mean that when looking at the development in the round it is considered that the proposal is of an appropriate design that suitably balances the functional requirements of the business with the visual amenity of the area. Policy BNE1 of the Adopted Local Plan 2016 sets out how development proposals will be considered, referencing, amongst other things, design, local character and pride and visual attractiveness. The design is considered to be an acceptable, if somewhat simple approach to providing such a facility within the context of the existing buildings on the site and therefore the proposals are considered to accord with the requirements of that policy.

Amenity

Whilst sizeable the building would not have any undue impact on the amenity of residents of nearby properties due to the separation distances involved. The proposal would, however, result in additional HGV traffic at the site with the knock on effect of additional disturbance on the routes between the site and the surrounding main roads and the villages of Scropton and Hatton. The applicant has provided additional information to quantify HGV movements at the site and specify the number which they anticipate would run outside normal working hours, i.e. outside 08:00 and 18:00, in order to be able to appreciate the impact of the proposal. They have stated that a review of their anticipated operations taking account of an increase in trips from the site to retailers as well a reduction in trips to their plant at Abergavenny would result in a net increase of 16 additional HGV movements per day. Of those 16 HGV movements per day, only two HGV movements would occur outside 08:00 and 18:00 and those would be in the evening. It is noted that the Council's Environmental Health Officer has raised no objection to the proposal on this issue and it is considered that this increase in HGV movements both during the day and evening is not considered to lead to such any undue adverse impacts on occupiers of nearby dwellings or those on the routes to the main road network to reasonably justify withholding permission.

Other matters

Matters of archaeology, drainage, flood risk and drainage have been addressed and the comments of the County Highway Authority and Peak and Northern Footpaths relating to the public right of way which crosses the site are noted. However, the development does not affect its current alignment of the footpath though it is noted that it is already blocked by the boundary wall and existing buildings.

Conclusion

The development is considered to be acceptable and will lead to a significant investment, creating a significant number of employment opportunities. Whilst there are acknowledged adverse impacts in terms of amenity, additional traffic, landscape impact and loss of trees, these matters do not outweigh the significant benefits that would result from the development in terms of economic growth.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the schedule of revised drawings and documents received by the Local Planning Authority on 7th March 2017 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt.
3. During the period of construction no deliveries shall be taken at, or despatched from, the site and no construction work on site shall take place outside the following hours: 0800 to 1800 Monday to Friday; 0800 to 1300 on Saturdays; and at no time on Sundays or Bank Holidays. No generators or pumps shall be used on site without having been previously agreed in writing by the Local Planning Authority.
Reason: To protect the amenity of occupiers of existing residential properties.
4. The level of noise emitted from any plant or equipment provided shall not exceed the background level dB LA90,t at any time as measured at the boundary of the nearest residential property.
Reason: To protect the amenity of occupiers of existing residential properties.
5. The noise mitigation measures outlined in the Noise Assessment produced by TRC Companies Ltd, reference: 259556.0000.0000, shall be implemented in full and once provided shall be retained thereafter throughout the life of the development.
Reason: To protect the amenity of occupiers of existing residential properties.
6. Before any works involving the construction of the building commences details of a scheme for the disposal of foul water shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in

conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of pollution control.

7. Before any works involving the construction of the building commences a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non- statutory technical standards for sustainable drainage systems (March 2015) has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided.

8. The development permitted by this planning permission shall be carried out in accordance with the recommendation contained within the approved Flood Risk Assessment (ref: S1298/Dec 2016 produced by Bailey Johnson Hayes) i.e. the finished floor level of the building is set no lower than 57.4m above Ordnance Datum (AOD).

Reason: To reduce the risk of flooding to the proposed development and future users.

9. Prior to the development hereby permitted being first brought into use a Flood Warning and Evacuation Plan for the site shall be submitted to and approved in writing by the Local Planning Authority. This should include an appropriate method of flood warning and evacuation to ensure the safe use of the development in extreme circumstances and implemented in accordance with the approved details. The Flood Warning and Evacuation Plan shall be active throughout the lifetime of the development.

Reason: To protect future users from flooding.

10. No removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

Reason: To ensure that ecological interests are protected.

11. No external lighting shall be provided until a lighting strategy which shall include precise details of the intensity, angling and shielding as well as the area of spread of any external lighting to serve the development have been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To ensure that ecological interests are protected and to reduce the impact of lighting on the countryside.

12. Prior to the commencement of development, except for demolition, a Construction Management Plan or Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.
Reason: In the interests of highway safety.
13. Prior to the development hereby permitted being first brought into use the new access shall be formed to Scropton Road. The access shall be laid out in accordance with the application drawings (17196-04 and 15025/TP/004 rev C) and be provided with 2.4m x 160m visibility sightlines in each direction, the area forward of which shall be cleared and maintained clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.
Reason: In the interests of highway safety.
14. Prior to the development hereby permitted being first brought into use the car parking and manoeuvring space shall be laid out in accordance with the approved plans and shall be maintained available for their designated uses until such time as replacement parking on the west of the site is available.
Reason: In the interests of highway safety.
15. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.
Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by the development of it.
16. Notwithstanding the submitted details, before any works involving the construction of the building commences a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, the details of those to be retained, together with measures for their protection during the course of development which accord with the BS 5837:2012 Recommendations for Tree Work. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development or the approved scheme (whichever is the later) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season

with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees affected.

17. Notwithstanding the submitted details, before any works involving the construction of the building commences a Landscape Management Plan, including its implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be implemented as approved.

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

18. a) No development except for demolition 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
1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. 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: To ensure potential impacts to below-ground archaeological remains are protected and recorded.

19. Notwithstanding the submitted details or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of any boundary treatments details of any boundary treatment, including barrier controls, 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

development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity.

20. Notwithstanding the submitted details, before any works involving the construction of the building commences samples of the proposed materials to be used in the external construction of the development have been submitted to, and approved in writing by, the Local Planning Authority and the development shall only be undertaken in accordance with the materials so approved and shall be retained as such thereafter.

Reason: To ensure a satisfactory standard of external appearance.

Informatives:

1. 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 Communities & 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, email ETCNetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

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

3. The application site is affected by a Public Rights of Way (Footpath 22 in the Parish of Foston & Scropton, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Communities Department at County Hall, Matlock.

4. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 580000 for further information and an application form. If a right of way is required to be permanently diverted then the Council that determines the planning application (the Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the Planning

Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council. To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping-up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

5. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

6. Network Rail advise that surface and foul water drainage from the development area be directed away from Network Rail's retained land. Water must not be caused to pond on or near railway land either during or after any construction-related activity. The construction of soakaways for storm or surface water drainage should not take place within 20m of the Network Rail boundary. Any new drains are to be constructed and maintained so as not to have any adverse effect upon the stability of any Network Rail equipment, structure, cutting or embankment. The construction of surface water retention ponds/tanks, SuDS or flow control systems should not take place within 20m of the Network Rail boundary where these systems are proposed to be below existing track level. Full overland flow conditions should be submitted to Network Rail for approval prior to any works on site commencing. If a Network Rail-owned structure (such as a culvert, pipe or drain) is intended to act as a means of conveying surface water within or away from the development, then all parties must work together to ensure that the structure is fit for purpose and able to take the proposed flows without risk to the safety of the railway or the surrounding land.

7. Network Rail advise that Method statements may require to be submitted to Network Rail's Asset Protection Project Manager for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE)

MUST be contacted, details are below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Asset Protection Project Manager
Network Rail (London North Eastern)
Floor 3B
George Stephenson House
Toft Green
York
Y01 6JT
Email: assetprotectionlneem@networkrail.co.uk

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

Network Rail advice that where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees - Pines (Pinus), Hawthorne (Cretaeagus), Mountain Ash - Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata ""Zebрина""

Not Acceptable:

Acer (Acer pseudoplatanus), Aspen - Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

A comprehensive list of permitted tree species is available upon request.

8. The applicant and all future occupiers should sign up to the Environment Agency's free flood warning service. The service offers three levels of flood warning and can give the applicant vital time to prepare for flooding. Warnings can be received by telephone, fax, text message, pager and email. To sign up call Floodline on 0345 988 1188 or visit www.gov.uk/flood

9. The applicant is advised that in connection with the surface water drainage condition above this will require the production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

- a) Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
- b) Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
- c) Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- d) 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.
- e) Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- f) Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S5.

They also advise that the County Council holds a suite of information that can inform site development across Derbyshire. The information within this document has been interpreted and provided by an officer from the Flood Risk Management team.

"" Historical data has been collated from a range of sources and is anecdotal. The provision of this data is suggested to act as a guide only.

"" Fluvial data has been provided by the Environment Agency however the applicant is advised to contact the Environment Agency for further information should the site lie within the floodplain of a Main River.

"" The County Council hold British Geological Survey data under a licenced agreement and therefore are not licenced to reproduce this information into the public domain.

"" The County Council have modelled surface water flooding for the whole of Derbyshire. The model output gives an indication of the broad areas likely to be at risk of surface water flooding and is intended to act as a guide

only and cannot be used to identify specific properties at risk.

"" Further information regarding the Water Framework Directive, ecology and biodiversity should be obtained from the Environment Agency and Natural England.

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

Item **1.4**

Ref. No. **9/2016/0238/B**

Applicant:
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The Walnuts
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Derby
DE73 7HU

Agent:
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Proposal: **VARIATION OF CONDITION 14 ATTACHED TO PLANNING PERMISSION 9/2013/0458 TO USE THE FLOOD LIGHTS LATER THAN 9.30PM FOR ONE EVENT A YEAR AT THE RECREATION GROUND COCKSHUT LANE MELBOURNE DERBY**

Ward: **MELBOURNE**

Valid Date **27/04/2016**

Reason for committee determination

This item is reported to the Committee as the proposal would be carried out on land that belongs to the Council.

Site Description

The recreation ground is located to the west of Cockshut Lane. The site consists of an all-weather football pitch which is floodlit, three rugby pitches, a further two football pitches a recreational cricket pitch and a tennis court which is located to the north west of the site.

Proposal

Planning permission was granted under planning application 9/2011/0910 for the creation of the recreation ground and associated facilities. This application seeks permission to vary planning condition fourteen that was attached to planning application 9/2011/0910, so that the floodlights may be left on past 9:30 at night for a total of one occasion during the year to hold a sporting event.

Planning History

9/2011/0910 - Proposed redevelopment to form new facilities for rugby, football, cricket, tennis and bowls. The erection of a new club house

floodlighting and creation of parking facilities – Approved with conditions - 25/01/2012

Responses to Consultations

Melbourne Civic Society has no objections to the application.

Melbourne Parish Council has no objections to the application.

Responses to Publicity

There have been three comments received from local residents that raise the following points:

- a) The application states to use the floodlights after 9:30pm four times a year. However, the application states a one off event, which is correct?
- b) Residents are aware and irritated by light pollution.
- c) To add the noise pollution from the use of the pitches overnight is not acceptable.
- d) It is quite possible to run this event during the daylight hours without the need to disturb local residents in their sleeping hours.
- e) The overnight hours show a careless attitude to being a “good neighbour” for such an application to be made.
- f) It is clear that these objections relate to any future “similar occasions”.
- g) It is important that planning conditions are not recklessly violated.

Development Plan Policies

The relevant policies are:

- South Derbyshire Local Plan Part 1 2016: S2 (Presumption in Favour of Sustainable Development), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles) and Chapter 8 (Promoting Healthy Communities).
- National Planning Policy Guidance (NPPG): ID53.

Planning Considerations

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

- Purpose of the use of the floodlights
- Concerns raised by local residents

Planning Assessment

Purpose of the use of the floodlights

The ability for the lights to be left on for longer would allow the facility to accommodate more sporting events e.g. charity events and during occasions such as when the Olympic Games are in progress. The variation of condition fourteen would enhance the use of the facility and would be consistent with policy INF9 of the Local Plan Part 1.

Concerns raised by local residents

Concerns have been raised by local residents with regard to the glare that would be present from the floodlight. However, there is no change to the level of illumination, height, or position of the flood lights. Therefore, with the exception of the one instance a year where they would be left on longer, there would be no change to the current impact on the local residents.

Conclusion

On the basis of the information to hand, it would appear that the variation of condition fourteen to accommodate the flood lights remaining on past 9:30 for one occasion a year would enhance the facility and enable it to accommodate more events without undue detriment to amenity.

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. This decision is delegated to officers under the terms of the current Development Control.

Recommendation

GRANT permission subject to the following conditions:

1. The agreed parking and manoeuvring of visitors/staff/service and delivery vehicles including secure covered cycle parking), shall be 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.

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

Reason: In the interests of highway safety.

3. The intensity, direction, spread of luminance and shielding of light sources (so as to minimise the risk of drivers on the highway being dazzled) shall be maintained in accordance with the approved scheme for the life of the development.

Reason: In the interests of highway safety.

4. The ground levels of the area shown hatched and marked 'A' on the attached plan shall not be altered other than in strict accordance with Planning Permission Ref 2/2010/0220/SSA.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

5. Other than the areas shown hatched and marked 'A' 'B' and 'C' on the attached plan no raising or lowering of existing ground levels in excess of 300mm shall take place without the prior written approval of the Local Planning Authority.

Reason: In the interests of the character of the area and to protect the amenities of the occupiers of adjoining dwellings.

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

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

7. Tennis courts shall not be used for any other sporting activity other than for tennis and netball without prior written approval from the Local Planning Authority.

Reason: To prevent uses on the tennis courts which could result in excessive noise.

8. Written records shall be kept of the formal users of the recreation ground. The records shall include which users are using which sporting facility and at what time throughout the day and the facility administrators shall make that information available at all reasonable times to the local planning authority.

Reason: Should noise problems arise, the problematic bookings can be identified.

9. No external sporting facilities shall be used from 9:30pm until 8.00 am the following day, with the exception of one occasion in one calendar year, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

10. Floodlighting to pitches and other recreation areas shall be turned off no later than 9:30pm, with the exception of one occasion in one calendar year and shall not be turned on again until the following afternoon.

Reason: To preserve amenity.

11. The approved scheme of lighting as approved in writing by the by the Local Planning Authority. (The scheme shall be compliant with ILE Guidance recommendations (Environmental Zone Category E2). Results of post completion testing shall be submitted to and approved in writing by the Local Planning Authority before the lighting is brought into use and shall demonstrate compliance with the scheme) shall be maintained throughout the duration of the permitted use.

Reason: To preserve amenity and to prevent danger to road users.

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

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

13. Unless as may otherwise be agreed in writing with the Local Planning Authority a landscape management plan, which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the first use of the development or any phase of the development, whichever is the sooner. The landscape management plan shall be carried out as approved.

Reason: In the interests of the appearance of the area and to ensure that tree and shrub planting does not constrain the capacity and functionality of the playing fields.

14. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no 6409A 01A, 6490P 03A, and drawing numbers UKS7405/3, 6409P 02A, 6409P 01-2, 6409 P 01, 6409 V01.

Reason: For the avoidance of doubt.

15. Unless as may otherwise be agreed in writing with the Local Planning Authority, before any part or phase of the development is brought into use it shall be constructed and/or implemented in accordance with details and specifications that confirm the facilities are compliant, where relevant, with the technical guidance of Sport England, Rugby Football Union, Football Association, English Cricket Board, Bowls England and Lawn Tennis Association.

Reason: To ensure that the development is a sustainable sport and recreation facility.

16. Unless as may otherwise be agreed in writing with the Local Planning Authority, the development shall be implemented in accordance with a phasing plan which shall have previously been submitted to and approved in writing by the Local Planning Authority and which identifies the timescale and order of the development.

Reason: To ensure that the development is a sustainable sport and recreation facility.

17. Before work is carried out to any playing field or pitch, details and specifications to demonstrate that the quality of any such pitch is compliant with Sport England technical guidance contained in Natural Turf for Sport and the relevant specialist technical guidance of the Rugby Football Union, English Cricket Board and Football Association, shall be submitted to and approved in writing by the Local Planning Authority. The works to pitches and playing fields shall be implemented in accordance with the approved details and specifications.

Reason: To ensure that the development is a sustainable sport and recreation facility.

Informatives:

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

Item **1.5**

Ref. No. **9/2016/0454/SSA**

Applicant:
Mr & Mrs Cotton
Hill Farm Caravan And
Camping Park Ltd
Moor Lane
Barrow On Trent
Derby
DE73 7HZ

Agent:
Jon Millhouse
Planning Design Practice
Ground Floor, Suite 4
Woburn House
Vernon Gate
Derby
DE1 1UL

Proposal: **USE OF CARAVAN CLUB SITE AS TOURING CARAVAN SITE INCLUDING THE FORMATION OF 5 PITCHES (TO REPLACE THE 5 EXISTING PITCHES) AND THE SITING OF 6 GLAMPING PODS AT HILL FARM CARAVAN AND CAMPING SITE MOOR LANE BARROW ON TRENT DERBY**

Ward: **ASTON**

Valid Date **21/07/2016**

Reason for committee determination

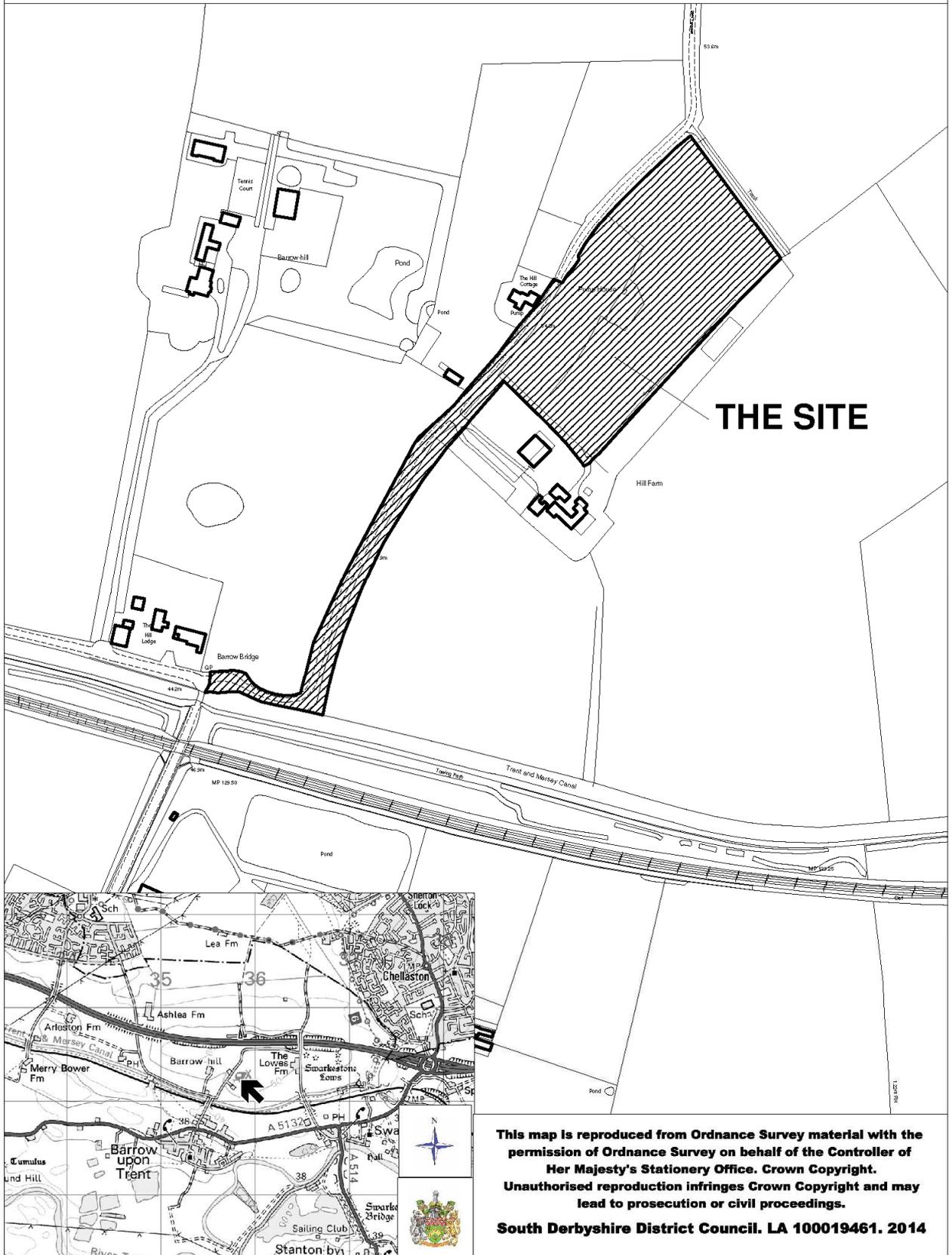
The item is presented to Committee as this application is for a major development (by virtue of the site area) where more than two objections have been received.

Site Description

The application site is located adjacent to Hill Farm, on Moor Lane approximately 1km to the north of Barrow on Trent. Moor Lane is a narrow rural road which serves the site, Hill Farm and a small number of residential properties.

The site is bound to the north, east and west by existing hedgerows and is served by an existing track which also serves Hill Farm. The existing site has been used for a number of years as a caravan site certified by the Caravan Club, there are two certified Caravan Club sites at Hill Farm one the subject of this application and another to the north-west of Hill Farm itself, each certified site is for a maximum of 5 caravans. The site is located within the open countryside.

9/2016/0454 - Hill Farm Caravan & Camping Site, Moor Lane, Barrow on Trent, Derby DE73 7HZ



Proposal

The application proposes the provision of 5 touring caravan pitches on the site, in place of the permitted Caravan Club site within the application site, and the siting of 6 'Glamping Pods'.

The 5 caravan pitches would be sited along the south-eastern boundary of the site. The six pods are shown sited in a curved arrangement to the centre of the existing field 3 either side of an amenity block permitted in 2015 and currently under construction. An additional area of hardstanding would be provided for car parking associated with the pods to the east of the amenity block.

The proposals also includes improvements to the site access, the provision of two dedicated caravan passing places on Moor Lane and improvements to the existing road bend in-between the site entrance and Barrow Bridge.

It should be noted that one of the existing 5 permitted Caravan Club pitches would be unaffected by the development, and that the extent and nature of the proposals has altered significantly since the first submission of the application which originally proposed the provision of 25 caravan pitches, a large amenity block building and the provision of 6 'Glamping Pods'.

Applicant's supporting information

A Planning Statement has been submitted in support of the proposals, which outlines the site and proposed development. Sections of the NPPF are outlined as are the relevant policies of the local plan. The principle of development is considered to be appropriate with the benefits to the local economy highlighted as a result of an increase in tourism. The site is considered to be sustainably located close to the village of Barrow and the Ragley Boat Stop public house.

The statement outlines the increasing demand for caravan pitches at the site which currently have to be turned down, however these enquiries do highlight the need for these facilities in this area. This interest has resulted in the development of this proposal. The 5 permanent caravan pitches, together with the camping pods, will allow the business to advertise to a larger market. These changes form an essential part of the business model, increasing the number of new self-catering holiday pitches available on the site and supporting the growth of tourism within the parish and local area.

The site would be viewed in the context of the existing Caravan Club site already operating, with the glamping pods sited in close proximity to a copse of trees which coupled with their natural materials would result in a development that would not be unduly prominent in the rural landscape. The proposals are considered to be sufficiently distant from neighbouring dwellings to avoid an unacceptable increase in noise and disturbance, and the limited increase in traffic is not considered to give rise to unacceptable impacts on residential amenity.

The Highways Impact Statement was prepared on the basis of the original proposal, and following revisions to the scheme a revised plan has been provided which

includes the provision of two caravan passing places in-between Barrow Bridge and the site entrance with the existing corner on Moor Lane widened to provide forward visibility around the bend.

Planning History

9/2015/1046: The erection of an amenity block to service existing camping & caravan site. Approved 04/01/16.

Responses to Consultations

The County Highway Authority have no objections to the proposed development to allow the 5 permitted development Caravan Club pitches, to be used by the general public and 6 'Glamping Pods'. This is subject to the provision of the highway improvements detailed within the application and a restriction on the number of permanent pitches on the site.

The Contaminated Land Officer notes that the site is currently served by a private water supply. As a commercial private supply the Council has a regulatory role in monitoring water quality and sufficiency which is defined by a risk assessment process and the applicant should be made aware of this.

The Environment Agency has no objections to the proposals but comments on the hierarchy of drainage options set out in the PPG.

The Environmental Health Officer has no comment on the proposal.

Derbyshire County Council (Lead Local Flood Authority) having reviewed the submitted FRA state that there are no objections to the development.

Severn Trent Water has no objection to the proposals subject to the inclusion of an informative advising the applicant that consent is required for connections to the public sewerage system.

Natural England has no comment on the proposals.

Barrow on Trent Parish Council objected to the original application for the following reasons:

1. The suitability of access to and from this site particularly for towing caravans;
2. The increase in traffic on local roads;
3. Concern the site is currently being use for 8 caravans and not 5 as licenced;
4. Concern at the provision for sewage treatment as the site is off the mains system.

No response has been received from the Parish Council following re-consultation on the amended proposal.

Responses to Publicity

A petition containing 15 signatures has been received, and three individual letters have been received, which raise the following concerns:

- a) Increased noise and disturbance from around 100 additional people;
- b) Highway safety; Moor Lane is a single track road with blind bends and limited passing points. This development would increase risk of accidents, the road is not suitable for towing caravans;
- c) The volume of additional traffic would increase the risk of accidents;
- d) There is no safe pedestrian access to the site;
- e) Visual impact of the caravans, which would be visible from the road. The glamping pods would be in the line of sight from our windows;
- f) Is the water on site fit for human consumption?
- g) Concern at where the water will come from, as the current natural flow is used to supply water to livestock;
- h) Whilst the revisions to the application go some way to improve access no alterations are proposed to the bridge and the access will remain dangerous.

Following alterations to the proposal as detailed above, one letter of objection has been received which raises a concern that whilst the application details a restriction of 5 caravans at the site, the area where five caravans are currently stationed is outside the 'red line'.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape, Character and Local Distinctiveness), INF2 (Sustainable Transport), and INF10 (Tourism Development).
- Saved Local Plan: EV1 (Development in the Countryside); EV9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

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

National Guidance

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

Planning Considerations

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

- Principle of development;
- Landscape and visual impact;
- Highway safety; and
- Impact on amenity.

Planning Assessment

Principle of development

The primary Local Plan policy relevant to new tourism development is policy INF10, which is supportive of the provision of new reversible and temporary tourist accommodation in the countryside where identified needs are not met by existing facilities. In terms of the need for the provision of additional tourist accommodation, the applicant has provided evidence of demand for non-Caravan Club touring caravan pitches at the site over a number of years. In addition, the increasing local demand for this kind of facility is acknowledged in the supporting text to policy INF10.

The acceptance of new tourist development within the countryside acknowledges the important role that tourism plays in supporting the rural economy of the District. This being the case policy EV1 of the 1998 Local Plan and policy EV5 of the Part 2 submission Local Plan are also satisfied in principle as tourist development is deemed appropriate in the countryside (where needs are not met by existing facilities).

It is also important to note that the site benefits from permitted development rights that allow the siting of 5 Caravan Club caravans permanently at the site (and an additional 5 on an adjacent site). In principle therefore the provision of 5 caravan pitches for use by the general public and not just Caravan Club members and 6 'Glamping Pods' at the site is considered to be acceptable subject to consideration of the matters discussed below.

Landscape and visual impact

The application proposes relatively low intensity caravan pitches and 'Glamping Pods' within an existing field. The 5 caravan pitches are shown sited along the south-eastern boundary of the site close to the hedgerow, with the pods split in to two sets of 3 either side of the previously approved amenity block.

The site is reasonably well contained by existing hedgerows, which provide a screen for the site from the wider landscape and footpaths beyond the site. This is supplemented by an existing copse of trees to the centre of the site which provides a reasonable screen for the proposed caravan pitches and pods such that they would not have an undue impact on the local landscape. The pods are considered to be of a design and constructed in materials such that they would sit comfortably within this

rural site, and the timber and blue plain clay tile amenity building approved last year. Additional landscaping is proposed that would supplement the existing planting within the site. Overall the landscape impact of the proposal is considered to be minimal, with the pods considered to be of an attractive design sensitively sited and as such the development is considered to generally comply with the requirements of policies INF10, BNE1 and BNE4.

Highway safety

In considering the impact of the proposal on highway safety it is important to note the fall-back position that the site benefits from permitted development rights that allow for the site to be occupied by 5 Caravan Club caravans without the need for planning permission.

Moor Lane itself is a narrow rural road, which is generally unsuitable for large towing vehicles. In acknowledging the current situation and the need for highway improvements, the application includes the provision of two caravan passing places along Moor Lane, and improvements to the existing bend in-between the site entrance and Barrow Bridge. Subject to the delivery of these highway improvements and a restriction on the maximum number of caravan pitches at the site to 5, the Highway Authority is satisfied that the proposal would not have a detrimental impact on highway safety and would in fact improve the existing situation though the provision of appropriate caravan passing places whilst not increasing the number of towing vehicles using Moor Lane, as the users of the pods would not require towing caravans.

The recommended conditions would secure improvements to the existing site access, and the provision of visibility splays and passing places which can be achieved without the loss of any of the existing hedgerows on Moor Lane. As such the proposal is considered to comply with the requirements of policy INF2 such that appropriate provision is made for safe and convenient access to the site.

Impact on amenity

The proposals are located over 70m from the nearest residential dwelling, which is considered to be sufficient distance so that the residential amenities of the dwelling are not affected by the development. This would be aided though the provision of additional landscaping to supplement the existing copse of trees at the centre of the site. This coupled with the highway improvements discussed above would not lead to any undue impacts on this or any other nearby dwellings and as such complies with the requirements of policies BNE1 and INF2.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing REF 1083 - 001, 1083 - 003 Rev F, 1083 - 009 Rev A, and the Dunster House Insulated Glamping Cocoon (W4.0m x D4.0m) specification; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Notwithstanding the provisions of Schedule 2 Part 5 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the site, the subject of the application shall only have a maximum total of 5 touring caravan pitches for the use of both the Caravan Club and general public.
Reason: As recommended by the Highway Authority in the interest of highway safety.
4. 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; no gates, walls, fences or other means of enclosure shall be erected on the site without the prior written approval of the Local Planning Authority.
Reason: To ensure that any such structures are appropriate to the character and appearance of the locality.
5. Prior to the first use of the development a detailed scheme of highway improvement works for the provision of the passing places together with a programme for the implementation and completion of the works shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details.
Reason: As recommended by the Highway Authority to ensure that the approved use does not commence without agreement of the precise highway improvement works acknowledging that without the agreement and implementation of these works the use of the site could have a significant impact on highway safety.
6. Prior to the first use of the development, the existing access to Moor Lane shall be modified in accordance with the revised application drawings, laid out, constructed and provided with 6m radii and 2.4m x 43m visibility splays in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: As recommended by the Highway Authority to ensure that the approved use does not commence without the necessary highway improvement works being carried out acknowledging that without these works the use of the site could have a significant impact on highway safety.

7. A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any part of the development. The scheme shall include details of any re-profiling.

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

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

9. The use shall not commence until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors, staff, customers and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: As recommended by the Highway Authority in the interest of highway safety.

10. No gates shall be erected within 15m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: As recommended by the Highway Authority In the interests of highway safety.

Informatives:

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

2. To note and act upon as necessary the comments of the Environment Agency (see attached letter).

3. The County Flood Risk Team advises:

- Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate

number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.

- Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.

- The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.

- Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.

- Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface

water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

4. 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 & Communities 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, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway 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 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

The Highway Authority recommends that the first 15m 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.

5. Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our New Connections Team (Tel: 0800 707 6600).

Severn Trent Water advise that although their statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

6. The applicant is reminded of the legal requirements of the Private Water Supply (PWS) Regulations 2009. Any expansion of the existing private water supply network will need be to risk assessed and actions taken to ensure the water is sufficient and wholesome. South Derbyshire District Council Environmental Health team would recommend they are consulted on plans for network expansion prior to implementation and full consideration of the PWS Regulations and the risk assessment process is given. Background information and guidance is provided in the Drinking Water Inspectorate's Regulations & Guidance for private supplies which can be found at- <http://www.dwi.gov.uk/private-water-supply/regs-guidance/index.html>. South Derbyshire District Council's Private Water Supply Team can be contacted on 01283 595976 or by emailing commercial.team@south-derbys.gov.uk.

Item **1.6**

Ref. No. **9/2016/1050/U**

Applicant:
BT Plc
C/O Agent

Agent:
James Hollyman
Harris Lamb Limited
75 – 76 Francis Road
Edgbaston
Birmingham
B16 8SP

Proposal: **CHANGE OF USE TO A VEHICLE MAINTENANCE DEPOT (USE CLASS SUI GENERIS) AT UNIT A STENSON FIELDS INDUSTRIAL UNITS STENSON ROAD STENSON DERBY**

Ward: **STENSON**

Valid Date **09/11/2016**

Reason for committee determination

The item has been called to Committee by Councillor Shepherd due to local concern that has been expressed.

Site Description

The site consists of two units of industrial buildings and is located on the roundabout adjacent to residential properties in Stenson Fields. Unit A has historically been used for industrial uses (use class B1, B2 and B8) and for the use of vehicle repairs and vehicle storage.

Proposal

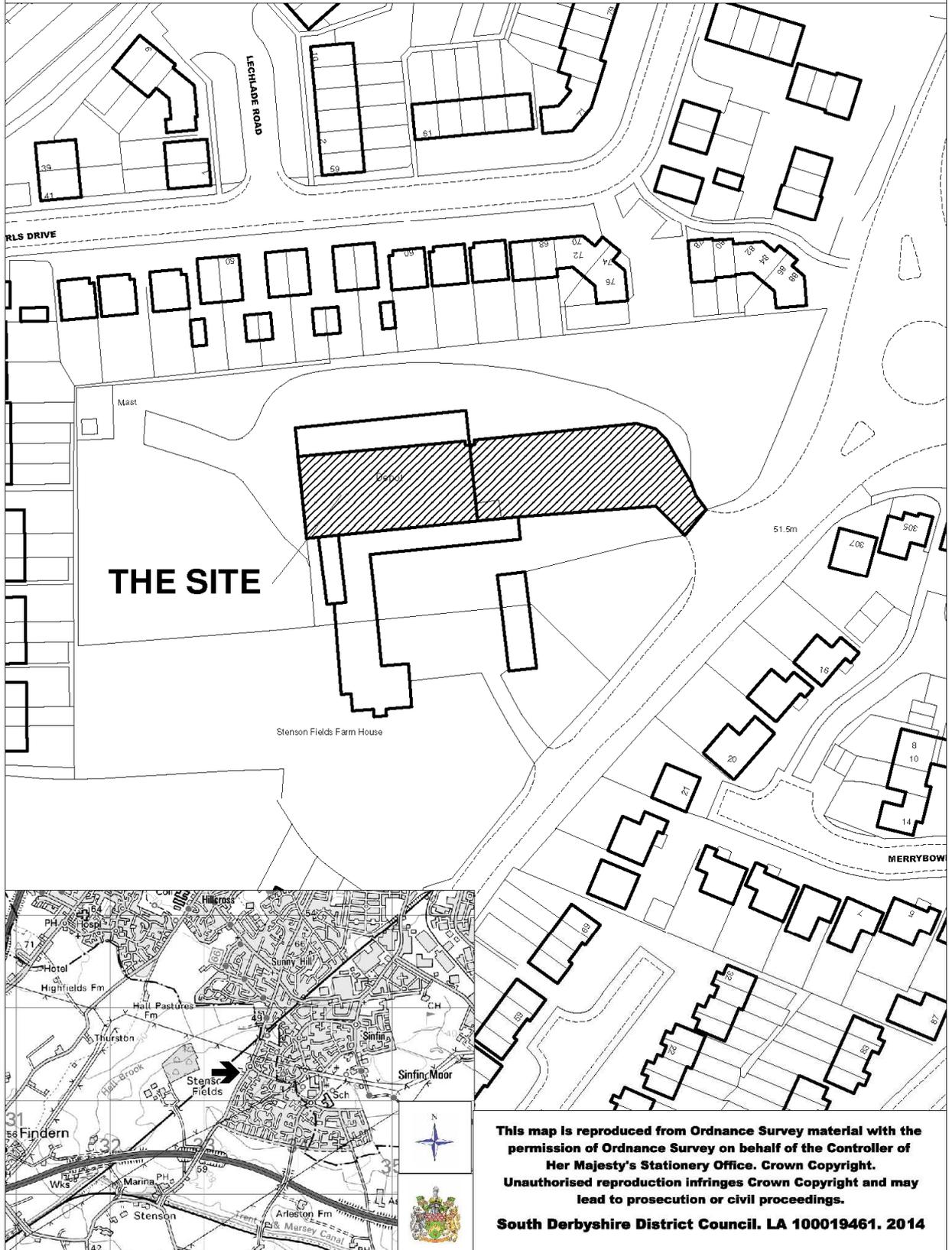
Consent is sought for the change of use of Unit A from light industry/ storage (use classes B1/B8) to a vehicle maintenance depot (use class Sui Generis) for BT.

Applicant's supporting information

Noise Assessment

The unit is currently vacant but it has previous been used for vehicle maintenance. It has been identified that the noise levels generated by the proposed facility would constitute a situation marginally above the "low impact" threshold defined in BS 4142: 2014. The site is located adjacent to an active industrial site and Stenson

9/2016/1050 - Unit A Stenson Fields Industrial Units, Stenson Road, Stenson, Derby DE 73 7HL



Road. The noise emissions generated by the proposed facility are therefore less likely to represent an incongruous sound when compared against the residual acoustic environment.

Planning History

9/2000/1177 - The use as a store of the workshop and the dwelling as offices for a construction company – Approved with conditions - 31/01/2001

9/2001/0891 - The use of the land for B1 (light industry) and B8 (storage and distribution) purposes – Approved with conditions - 13/11/2001

9/2007/0234 - The change of use of office accommodation and outbuildings to an operational office and depot – Approved with conditions - 24/12/2007

9/2010/0495 – The retention of use of land for the storage of contractor's vehicles, equipment, machinery and storage containers and materials – Refused - 21/07/2010 – Approved at appeal.

9/2011/0118 - Retrospective application for broadening of existing permitted uses to include class uses b1 and b8 vehicle repairs and bodywork, vehicle sales valeting and rental – Approved with conditions - 10/05/2011

9/2013/0813 - The variation of condition 1 of planning permission 9/2010/0495 (granted at appeal) for an extension of temporary permission until 20 December 2014 – Approved with conditions - 14/11/2013

9/2016/0257 – Change of use of land for the operation of a plant hire business – Approved with conditions - 09/05/2016

Responses to Consultations

The County Highways Authority has no objections subject to all parking and manoeuvring spaces being kept as such for the lifetime of the use.

The Environmental Health Officer has no objection subject to conditions.

The Contaminated Land Officer has no objections.

Responses to Publicity

Comments have been received from a local resident:

- The potential noise from engines revving and other sounds arising from the repairing of vehicles.
- The reduced air quality, owing to exhaust fume from diesel powered vehicles.
- Increased traffic entering and leaving the site which is very close to the Stenson Road and Grampian way island.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), and INF2 (Sustainable Transport).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34 (Promoting sustainable transport), chapter 7 (Requiring good design), paragraphs 18-19 (Building a strong, competitive economy) and paragraph 28 (Supporting a prosperous rural economy).
- National Planning Policy Guidance (NPPG) ID26 (Design) and ID30 (Noise).

Planning Considerations

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

- Proposed use
- Noise related issues
- Highways related issues

Planning Assessment

Proposed use

Adopted policy E3 of the Local Plan Part 1 seeks to retain use classes B1(b), B1(c), (light industry), use class B2 (general industry) and use class B8 (storage) within existing and established industrial sites.

Planning permission was granted in 2001 for the use of the premises as light industrial/office use and storage. The site is currently operating as a vehicle repair and vehicle storage facility which was granted under planning application 9/2011/0118. Planning permission is sought to use the site as a vehicle maintenance depot (use class Sui Generis) for BT. The proposed use would be very similar to the existing use in that vehicle repairs would be conducted and vehicles would be stored

on site. However, instead of the premises being open to the public like a vehicle repairs garage, the facility would be solely used by a company to maintain their vehicles, carry out works to their vehicles and store their fleet of vehicles.

The proposed use would be of an industrial nature, which has already been established on the site through the historic granting of permission for B1, B2 and B8 uses at Unit A and the surrounding industrial units. The proposed use would be consistent with the neighbouring industrial uses and would seek to retain an industrial based use within a designated industrial site and would allow the current unit to remain in a viable use. On the basis of this, the proposal would comply with policy E3 of the Local Plan Part 1.

Noise related issues

Policy E3 and SD1 of the Local Plan Part 1 stipulate that the proposed use should not have an adverse impact on the amenity of neighbouring properties.

Concerns have been raised due to the proximity of the industrial site to neighbouring residential properties which are located to the north, east and south of the site. The Councils Environmental Health Officer has assessed the application material and is satisfied with the application subject to conditions.

The main concern would be the noise associated with the vehicle repairs. However, vehicle repairs can currently be carried out on site under an existing use and it would therefore, not be reasonable or defensible to withhold permission in this regard. It is also possible to control the level of activity at the site through conditions which are consistent with the previous applications i.e. that all works to vehicles must be carried out within the existing building and not in the open yard to the front. Through the use of these conditions, it is possible for the noise levels to be controlled.

The proposed Vehicle Maintenance Depot would be controlled by conditions with regard to the hours of operation, which would be consistent with all neighbouring industrial uses and historic planning applications/appeal decisions.

Highways related issues

The proposed use seeks to use the existing site access and parking area and on the basis of this, there have been no objections raised by the County Highway Authority. The development would therefore, comply with policies S6 and INF2 of the Local Plan Part 1.

Conclusion

In light of the previous planning approvals on site and the allowed appeal decision, the proposed use would be located within an established industrial site and could be suitably controlled through the use of planning conditions to ensure that any potential adverse impact on the amenity of neighbouring residential properties would be minimised. The proposed use would comply with policies, S6, E3, SD1 and INF2 of the adopted Local Plan Part 1 and would retain an industrial based use within an

established industrial site. It is therefore, recommended that planning permission would be granted subject to planning conditions.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan, received on 7th October 2016; plan/drawing sheet 1/1, received on 7th October 2016; and the Noise Impact Assessment, received on 7th October 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Prior to the first use of the site, the applicant shall submit a boundary noise limit to be approved in writing by the Local Planning Authority. The approved limit shall be implemented prior to the first use and thereafter retained.
Reason: To protect the amenity of local residents.
4. No repairs or maintenance of vehicles shall take place in the yard area of the site, all repairs and maintenance shall take place within the building.
Reason: To protect the amenity of local residents.
5. No vehicles shall be despatched or returned to the site except between the hours of :0730 to 1800 Monday to Friday; and 0800 to 1330 on Saturdays; and at no time on Sundays or Bank Holidays.
Reason: To protect the amenity of local residents.
6. No deliveries shall be delivered to, or despatched from the site except between the hours of; 8am and 6pm Monday to Friday; 8am and 1.00pm Saturdays and no deliveries Sundays or Bank Holidays.
Reason: To protect the amenity of local residents.
7. There shall be no externally mounted fixed plant machinery without prior written approval from the Local Planning Authority.
Reason: To protect the amenity of local residents.

8. Prior to the first use of the development, the applicant shall submit details of all external lighting equipment to be used on site which shall be approved in writing by the Local Planning Authority. All approved identified control measures shall be implemented prior to the first use and shall be retained thereafter.

Reason: To protect the amenity of local residents.

9. The existing access, parking and manoeuvring space shall be maintained as such, free from any impediment to its designated use and shall be retained for the lifetime of the development.

Reason: In the interest of highway safety.

Informatives:

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

Item 1.7

Ref. No. 9/2016/1181/FH

Applicant:
Mr B Chera
Chera Brothers Stores
9-11 Kelso Walk
Sinfin
Derby
DE24 3DY

Agent:
Mr Paul Bowler
A P Design & Surveying Ltd
29 Horsley Road
Kilburn
Belper
DE56 0NE

Proposal: THE RETENTION OF FRONT GARDEN WALL AND RAISED
GROUND BEHIND AT 183 SWARKESTONE ROAD CHELLASTON
DERBY

Ward: ASTON

Valid Date 24/11/2016

Members will recall deferring the determination of this application to allow for a visit to the site to take place. There have been no changes to the report.

Reason for committee determination

The item is presented to Committee at the request of Councillor Watson due to local concern that has been expressed.

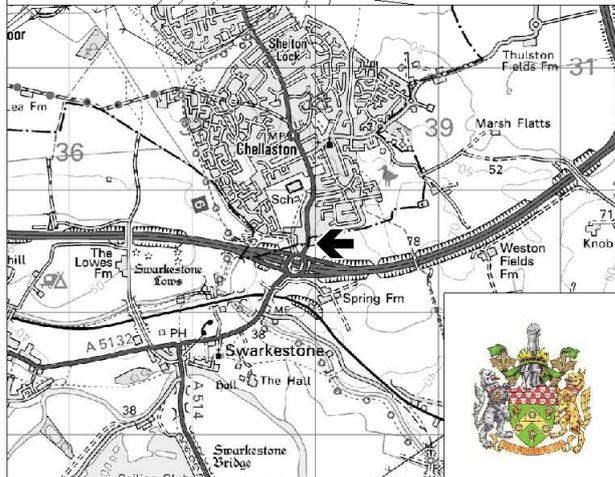
Site Description

The site is highly prominent and is positioned on the classified Swarkestone Road. Consent was granted for a replacement dwelling at the site and a large retaining wall has been partially constructed at the front of the property. The street scene is characterised by minimal built up boundary treatments and dense landscaping.

Proposal

Consent is sought for the retention of the retaining wall and engineering works to the front of the property, of which, the wall is currently partially constructed. The proposal seeks to drop the current height of the retaining wall to 1.8m in height and for the current block wall to be clad with stone and for a hedgerow and landscaping to be planted behind the wall to soften its appearance and create more seclusion for the owner of the property.

9/2016/1181 - 183 Swarkestone Road, Chellaston, Derby DE73 6UD



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Planning History

- 9/2011/0953 The erection of replacement dwelling (amended scheme of previously approved planning permission 9/2010/1142) – Approved with conditions January 2012
- 9/2010/1142 The erection of replacement dwelling – Approved with conditions January 2011

Responses to Consultations

The County Highway Authority notes that the wall does make some attempt to provide a small area for pedestrian intervisibility. On the basis of this, it is not considered that a highway objection could be sustained.

Responses to Publicity

10 objections that have been received, raising the following concerns/comments:

- a) The design and construction is totally out of character to the neighbouring properties. The wall was originally a low stone/earth bank retaining structure, as is the neighbours. The new height is overbearing and is a visual eyesore, as it is in a prominent position on the main A514 when entering Chellaston.
- b) The wall construction is of a very poor design and does not conform to national standards with regard to wall thickness for its height and the complete absence of pillars and buttresses needed to retain the high earth bank behind.
- c) The wall is a future safety hazard to pedestrians and road users. The balustrades on the top only emphasize the height of the wall which would actually be nearer 4m high when complete.
- d) The palisade height from the raised garden level does not conform to building regulations regarding the minimum height of pedestrian safety rails/barriers at height.
- e) This application relates to a retrospective application principally in respect of the newly constructed high wall facing the main road out of Derby through Chellaston, the A514.
- f) As the breeze block was constructed a very high volume of soil was massed up behind it (prior to the wall's construction) the soil level tapered down from the house to road level. Currently the soil level is flush with the top of the new 7 foot wall). Is new high volume of soil behind the wall suitably drained and stable?
- g) Is the new 7 foot breeze block suitably strong enough and have sufficient drainage capability to resist a landslide movement of the soil onto the A514, say arising from a heavy rain storm? If the answer is no, and the wall collapsed, it would probably result in breeze block and soil being deposited onto the A514 and could therefore also potentially cause a major road accident.
- h) If the Planning Committee is not convinced of the wall's structural strength and integrity, then I would respectfully request that application is either rejected or that the applicant is given a very limited time period within which

to correct any potential failings in the wall design and / or address any associated to the massed volume of soil behind it.

- i) Concerns have been raised that this wall is not strong enough to hold back the weight of soil behind it, as it is only single skin.
- j) The whole wall is not in keeping with the surrounding frontages of houses.
- k) The wall has been erected outside the above property on the main A514, as you enter Chellaston from the A50 roundabout. The wall is so big that planning consent is required, and an application has been submitted to South Derbyshire council.
- l) The wall is a visual eyesore and is one of the first things you see when entering Chellaston.
- m) The proposed completed wall will be even taller than it is now.
- n) The consultation period is now open, and I was wondering if local councillors were aware, and have any comments which could be put to South Derbyshire council.
- o) The wall does not appear to have been subject to any detailed design considerations.
- p) It does not encompass any of the features required for a retaining wall and its failure could potentially cause a major incident on the A514.
- q) Once the balustrades are in place, the wall will be in excess of 3m high, which is not in keeping with the surrounding area.
- r) The wall is unsightly and potentially dangerous. Unless they are building a prison, there is no need for such a monster of a wall.
- s) The wall is far too high and looks as though it has not been built as a proper retaining wall. Surely it should have more reinforcement in it. It is probably very dangerous to have that amount of earth behind it.
- t) The wall is very unsightly and not in keeping with the surrounding area.
- u) The wall is currently of breeze block construction which will presumably be faced by the proposed mixture of stone and balustrading.
- v) The current height seems far too high to be safe, considering the huge amount of earth that has been piled up behind it and the balustrading will make it even higher.
- w) The total effect of such a high wall is to give a fortress appearance, which is not in keeping with the street scene and certainly not with the dwarfed historic Windmill Cottage next door which has already been compromised by the enormous dwelling house on this site.
- x) The site is an eyesore.
- y) The present wall is made of breeze blocks not stone and looks most unsafe.
- z) The proposed wall in the plan will look very pretentious.
- aa) This wall is far too high to be in keeping with the site and adjacent buildings and is a danger to passing pedestrians and motorists. It does not appear to have been erected to a safe standard and is far in excess of the statutory height for walls adjacent to the pavement and roadway.

Following the submission of amended plans, 4 further representations were received raising the following points:

- a) Even with the alterations to the application, the wall is too tall for the position; does not appear to have been built to a satisfactory standard, and is too close to traffic and pedestrians.

- b) The revised proposals are much improved.
- c) There is no proposal for the species of hedge to be planted and it would be detrimental if conifers were used.
- d) Could a condition be attached to prevent the planting of a conifer hedge?
- e) There potentially could be a problem with the hedge height in future, and structural damage to the wall.
- f) The weep holes in the wall still drain onto the pedestrian footway. Would it not be better if a land drain was incorporated at a low level behind the wall, exiting onto the property driveway, away from the footpath?
- g) The amended application is more in keeping with surrounding property, but there is no engineering detail regarding the construction of the retaining wall which will need to hold back many tonnes of soil.
- h) The soil level should not be very close to the top of the wall as shown.
- i) The type of hedging is not specified.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H24 (Replacement Dwellings in the Countryside), BNE5 (Countryside), BNE7 (Trees, Woodland and Hedgerows)

National Guidance

- National Planning Policy Framework (NPPF): paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraph 32 (safe and suitable access) and chapter 7 (Requiring good design).
- Planning Practice Guidance (PPG) ID26 (Design).

Planning Considerations

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

- Size and scale of the wall and impact on local character;
- Stability of the structure (as a highway safety issue); and
- Landscaping.

Planning Assessment

Size and scale of the wall and impact on local character

Amended plans have been submitted that show that the proposed wall would measure 1.8m in height from the pavement level when completed. This is a significant reduction in height to the original plans that were submitted and a reduction in the height of the wall as currently constructed on site.

The front boundary treatment of properties in the area are characterised by a mixture of small stone retaining walls, hedgerows and areas of planting. There are only a few instances where properties have adopted different frontage designs along the street.

The wall has been partially constructed, out of concrete blocks so far forming the rear 'skin' of the wall. It is the intention, as shown on the amended plans, to adjust the overall height accordingly and clad the wall in stonework to match the appearance of the neighbouring properties. Planting would be placed behind the wall in order to soften the appearance and to provide more privacy. Whilst the wall would be higher than the usual boundary treatments in the area, the amended plans respond positively to the local vernacular. Through the reduction in height of the wall, the use of stone work and introduction of planting; the proposal would reflect the design approach which is seen at the front of other properties in the area. On the basis of this, the proposed alterations to the wall would be consistent with adopted and emerging policies.

Stability of the structure

Concerns have been raised by local residents with regard to the safety of the wall, in particular the amount of earth that has been positioned behind it. As the wall is 'single skinned', residents are concerned that this would have a negative impact and could allow the wall to collapse; however it must be recognised that the situation on site is not complete, with cladding of the wall to be undertaken. This could be a material planning consideration if it impacted on highway safety, but as the Highway Authority has not raised this as an issue, and with further advice from building control officers; there is no evidence that would dictate a withholding of permission on these grounds.

Landscaping

The proposed planting area would be on the raised land behind the wall and species used would be controlled through planning conditions. The planting would help to soften the appearance of the wall and would respond positively to the immediate vicinity and reflect the local character of the local area, which already benefits from trees, hedgerows and planting to the front of the properties.

Summary

With there no demonstrable safety issue and the design of the wall and landscaping approach reflecting the predominant characteristics of the area, the proposal is considered to accord with the relevant policies. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The front wall shall be carried out in accordance with the approved plans (Boundary Treatment - amended plan) received on 20th January 2017, within 3 months of the date of the permission.

Reason: To ensure that the works comply with the approved plans and in the interest of the visual amenity of the area.

2. The development hereby permitted shall be carried out in accordance with plans/drawings 2010/PP/01 and the amended Boundary Treatment plan, received on 20 January 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Prior to further works taking place, a scheme of landscaping for the hedgerow to be planted behind the wall hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

Informatives:

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

21/03/2017

Item 1.8

Ref. No. 9/2016/1228/FM

Applicant:
Mr C Gordon
10 Vicarage Lane
Kings Bromley
Staffordshire
DE13 7HY

Agent:
Mr C Gordon
10 Vicarage Lane
Kings Bromley
Staffordshire
DE13 7HY

Proposal: DEMOLITION OF GARDEN BUILDING AND ERECTION OF SINGLE DWELLING AND PROVISION OF 2NO. CAR PARKING SPACES AT 1 ROSLISTON ROAD WALTON ON TRENT SWADLINCOTE

Ward: SEALES

Valid Date 03/01/2017

Reason for committee determination

The item has been called to Committee by Councillor Hall due to the local concern that has been expressed about a particular issue.

Site Description

The site is located within the village confines of Walton on Trent and is positioned to the rear of 1 Rosliston Road, and is located in the rear section of the existing property's domestic garden. The site is located within a predominantly residential area and is abutted to the north, south and west by existing residential development. The site is positioned adjacent to an existing public right of way, which runs along the western edge of the site and is separated by a mature hedgerow and fencing.

Proposal

Consent is sought for the erection of a detached two storey dwelling with access from Rosliston Road and proposed parking to accommodate the existing dwelling and the proposed dwelling.

Planning History

9/2016/0702 - Certificate of lawfulness for a proposed two storey rear extension -
Approved

9/2016/1228 - 1 Rosliston Road, Walton on Trent, Swadlincote DE12 8NQ



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Responses to Consultations

The Environmental Health Officer has no comments to make on the proposal.

The Coal Authority has no comments to make.

The County Flood Risk Officer has no comments to make.

Severn Trent has no objections to the proposal.

The County Highways Authority has no objections to the proposal subject to conditions relating the implementation of pedestrian visibility splays.

Responses to Publicity

The Parish Council has raised concerns with regard to highways safety; with respect of the proposed driveway being positioned next to the footway and the limited visibility due to the bend in the hill. In addition, there are concerns with regard to the tarmacking of green verges to make way for car parking spaces which is likely to increase water flows with the drain that is currently blocked on the corner of Coton Road and Main Street.

There have been twenty two emails and letters from local residents raising the following issues:

- a) The existing dwelling has been extended which has reduced the size of the plot.
- b) The proposed dwelling is a significant overdevelopment of the remaining land and amounts to “garden grabbing” and would set a dangerous precedent in the village. This is a reason for refusal and would be consistent with the NPPF.
- c) The dwelling would significantly overdevelop the plot and would result in two undesirable properties with limited amenity space.
- d) The existing dwelling and the proposed dwelling would overlook and over shadow each other as well as a number of other properties including properties on Leadhams Croft.
- e) Number 1 Rosliston Road is currently owned by the developers and there would be no representations submitted by this property.
- f) The development would create a densely built up area and would put infrastructure and services under significant pressure.
- g) A lot of neighbouring properties would be significantly disadvantaged by the development.
- h) Any existing trees may be removed by the development which would create further exposure.
- i) The garden use should remain unchanged.
- j) The proposed development would be out of scale and out of character with neighbouring properties and would represent overdevelopment.
- k) The access to the proposed development will be limited due to the current boundary adjoining the public footpath.
- l) It is unlikely that a fire engine or an emergency vehicle could access the property in the event of an emergency.
- m) The dwelling would be built up to the boundary of a neighbouring property.

- n) The proposed access would be proposed near to a public footpath where children walk to school every day.
- o) There is 100ft of hedging at the site.
- p) The proposed dwelling would be built for profit with no thought to the village.
- q) The development would impede the character of the village and would have an impact on neighbouring views.
- r) The dwelling would encroach on the privacy and views from neighbouring gardens and conservatories.
- s) The dwelling would affect the right to light of neighbouring properties and would devalue them.
- t) Residents are keen gardeners and the proposed dwelling would look directly into people properties and would completely remove their privacy.
- u) The proposal would set a precedent for building in back gardens.
- v) The proposal would result in additional traffic with several cars coming and going from the property, would two car parking spaces be enough for a four bedroom house?
- w) The hedge has wildlife living in it and it is a heritage hedge.
- x) The village is already very busy with children coming from outside of the village to use the school. Children use the adjacent footpath and the development would therefore be dangerous.
- y) A window in the proposed dwelling would overlook Leadhams Croft and would require to be obscurely glazed.
- z) This development would set a precedent which could be continued down Rosliston Road and throughout the village.
- aa) The proposal would significantly reduce the amount of natural drainage at the site.
- bb) The position of the proposed access is already very heavily congested.
- cc) The change to the car parking would mean that cars could not turn if the spaces were occupied and would therefore lead to car reversing out onto a busy pedestrian route. The proposal would result in reversing down a gradient with poor visibility splays in close proximity of footpath.
- dd) The proposed access would be squashed between the regularly used footpath and the existing house.
- ee) The new driveway would be within approximately 10 metres of an existing road way (entrance to Leedhams Croft) with limited line of sight due to the bend in the road from Coton Road to Rosliston Road, in combination with the position of the access next to a public footpath would give way to highway safety concerns.
- ff) The tarmacking of part of the grass verge would result in less surface water soaking.
- gg) Concerns that the amount of parking that is proposed would cause issues to the surrounding houses and that the parking would be insufficient for the size of the house.
- hh) The site is located on a blind corner which cars speed around.
- ii) The proposal would result in the removal of valuable green space to the front of the property, which has an aesthetic role and facilitates surface water drainage with problematic flooding down the road.
- jj) The garden has a very old tree (magnolia) which would need to be removed which would not seem right in a village that has a dense ratio of built environment to green space.

Following the re-submission of amended plans, there have been seven emails/letters from local residents raising the following issues:

- a) The dwelling would seriously impede on neighbours privacy.
- b) The dwelling would have a detrimental effect on the value of resident's properties.
- c) There is significant development taking place at Drakelow, the only need for this dwelling is the greed of the developer.
- d) The proposal has left residents with a lot of anxiety and stress.
- e) The dwelling would have a detrimental effect on the setting of the village.
- f) The proposed dwelling would completely overlook neighbours properties.
- g) Residents are keen gardeners and the proposed dwelling would look directly into people properties and would completely remove their privacy.
- h) The hedge to the rear does not belong to the applicant and should not be removed.
- i) The dwelling would be extremely dangerous to the school children who walk to school in the village.
- j) The proposed amendments do not address the road safety and water drainage concerns that were originally outlined.
- k) There are many concerns about building at the rear and a bungalow would not alleviate this.
- l) There was no objection to the extension and modernisation of the existing dwelling but the hallway window overlooks neighbouring properties.
- m) The site is situated on much higher ground and would have a greater impact than the existing dwelling.
- n) There will be a large amount of garden that will need to be removed to accommodate the development and this will have a great impact on drainage.
- o) Higher density housing would change the current nature of the community and would increase the strain on the current infrastructure.
- p) The two spaces at the front of the property would create hardstanding to the front of the property and would change the look of the street scene.
- q) The amended plans do not address the concerns with regard to access and highway safety.
- r) The change to the car parking would mean that cars could not turn if the spaces were occupied and would therefore lead to car reversing out onto a busy pedestrian route.
- s) The adjacent footpath is used by a high number of children attending the local primary schools and nursery.
- t) The proposal would result in reversing down a gradient with poor visibility splays in close proximity of a footpath.

The Parish Council consider that the amendment to the plans does not address the issues raised in the Parish Council's original objection and therefore its original comments still stand.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest).
- 1998 Local Plan (saved policies): Housing Policy 5 (Village Development) and Environment Policy 9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

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

National Guidance

National Planning Policy Framework (NPPF) National Planning Policy Framework (NPPF), relevant paragraphs include: Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34 (Promoting sustainable transport), Chapter 6 (Delivering a wide choice of quality homes), Chapter 7 (Requiring good design), paragraph 72 (Promoting healthy communities), paragraphs 109, 111 and 118-123 (Natural environments), paragraph 186 (Decision-taking), paragraphs 196 & 197 (Determining applications) and paragraphs 203 – 206 (Conditions and obligations).

National Planning Practice Guidance (NPPG) ID:26 (Design), ID:21a (Conditions), ID:3 (Housing land availability) and ID:50 (Rural Housing).

Local Guidance

- Housing Design and Layout SPG.

Planning Considerations

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

- Principle of the proposed dwelling house
- Impact of the proposed dwelling on neighbouring properties
- Highways Impact
- Other matters

Planning Assessment

Principle of the proposed dwelling house

Policy H5 of the Saved Local Plan 1998 stipulates that new housing can be accommodated within village confines provided that it is in keeping with the scale and character of the settlement. Policy BNE1 of the Local Plan Part 1 also stipulates that new development should respond to the local context and local character.

The site is located within the confines of the village of Walton on Trent and is contained on all sides by existing development. The area consists of a mix of dwelling types, ranging from semi-detached dwellings along Rosliston Road and Harbin Road and larger detached properties along Leadhams Croft, which is located to the side of the site adjacent to the public footpath. The proposed dwelling would be a detached property which would be similar in size and scale to the existing dwellings on Leadhams Croft. Due to the position and orientation of the proposed dwelling, it would be read as fronting onto Leadhams Croft and would mirror and re-inforce the size, scale and layout of the existing street scene in Leadhams Croft. The position of the dwelling to the rear of 1 Rosliston Road would not result in the erosion of the street scene when viewed from Leadhams Croft or the public right of way that runs alongside it. On the basis of this, the proposal would be in-keeping with the scale and character of the surrounding area and the proposal would comply with policy H5 of the Saved Local Plan 1998 and policy BNE1 of the Local Plan Part 1.

Impact of the proposed dwelling on neighbouring properties

Concerns have been raised by local residents with regard to the impact of the proposed dwelling on neighbouring properties in terms of overshadowing and overlooking, in particular due to the gradient of the site. Amended plans have been submitted which show a change in the position of the dwelling and the proposed dwelling complies with the minimum separation distances as contained within the Council's SPG.

The site occupies an elevated position over properties to the rear of the site (Harbin Road) and to the side (Leadhams Croft). The neighbouring properties on Rosliston Road are positioned on slightly higher ground than the proposed site. The proposed dwelling would maintain a distance in excess of 21m from the conservatory of number Three Rosliston Road to the proposed dwelling. The proposal therefore, complies with the minimum separation distances as contained in the Council's SPG and owing to the application sites lower ground level to the existing dwellings on Rosliston Road, it would not be considered reasonable or defensible to withhold permission in this regard. In addition, concerns have been raised by residents to the rear of the site with regard to issues of overshadowing and overlooking. The proposed dwelling would present rear facing living room windows at ground floor level, of which the outlook of these proposed windows would be blocked by boundary screening and would not pose an overlooking issue. The first floor windows of the proposed dwelling consist of a bathroom and hallway windows; these would not be classed as habitable rooms. The Council's SPG stipulates that a distance of 12m must be preserved between the existing neighbouring windows and the proposed dwelling. In this particular instance, a distance exceeding 21m can be achieved. Despite the neighbouring properties to the rear being located on a lower ground level to the application site, the separation distance that can be maintained would far exceed the requirements of the Council's normal standards. On the basis of this, withholding permission would not be considered reasonable or defensible in

this regard. The first floor rear windows of the proposed dwelling could be conditioned to be fitted with obscure glazing which could be controlled through conditions.

Highways Impact

Policy INF2 of the Local Plan Part 1 stipulates that a safe and convenient access to the development must be achieved for pedestrians, cyclists, public transport users and private car users. The proposal includes an access to the proposed dwelling to the side of the existing property with three parking spaces to the rear and the creation of a dropped kerb to the existing property, with the creation of two spaces to the front of the existing dwelling.

The proposed new access to the side of the existing property is positioned next to the opening of a public right of way and the driveway would be positioned parallel to this. There have been concerns raised by local residents with regard to the proximity of the proposed access for the new dwelling and the public footpath. However, the position and width of the proposed access would allow the necessary 2m x 2m x 45 degree pedestrian visibility splay as required by the County Highway Authority. The plans as submitted show that this can be achieved and on the basis of this, the County Highway Authority do not consider that a highways objection could be sustained in this regard.

Concerns have been raised by local residents regarding the removal of a section of the grass verge to the front of the property to accommodate the footway crossing for the proposed new dwelling and the existing dwelling. Whilst the creation of the proposed access would remove a section of greenery from the street scene, this has been frequently carried out along Rosliston Road. There are many properties on Rosliston Road benefiting from having dropped kerbs and driveways to accommodate cars. On the basis of this, these works to the front would not be considered to be visually harmful to the setting of the street scene and would be reflective of similar frontages along Rosliston Road. The proposed development would therefore comply with policies S6, INF2 and BNE1 of the Local Plan Part 1.

Other matters

Further concerns have been raised with regard to the removal of trees to the rear of the site. These collection of trees fall outside of the site and outside of the control of the applicant. There are no plans for these trees to be removed as part of the application.

In addition, concerns have been raised about the impact of surface water flooding due to the creation of the access to the front of the site. The conditions that have been sort by the County Highway Authority specify that measures shall be taken to prevent the flow of surface water onto the adjacent highway.

Conclusion

It is considered that the proposed dwelling complies with policies S6, BNE1 and INF2 of the Local Plan Part 1 and policy H5 of the Saved Local Plan 1998. On the

basis of this, it would be recommended to grant planning permission subject to conditions.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing ""Site Plan"", received on 24th February 2017; plan/drawing ""Block Plan"" 36.1602A, received on 24th February 2017; plan/drawing ""Dwelling Elevations"" 36.1604A, received on 24th February 2017; and plan/drawing ""Dwelling Floor Plans"" 36.1603A, received on 24th February 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Before any other operations are commenced, the new vehicular and pedestrian accesses shall be created to Rosliston Road in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.
Reason: In the interest of highway safety.
4. The accesses, the subject of condition 3, shall not be taken into use until 2m x 2m x 45 degree pedestrian intervisibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.
Reason: In the interest of highway safety.
5. The proposed access driveways to Rosliston Road shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided, such facilities shall be maintained in perpetuity free from any impediment to their designated use.
Reason: In the interest of highway safety.
6. The proposed dwelling shall not be constructed until precise details, specifications and, where necessary, samples of the facing materials to be

used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

7. The proposed dwelling shall not be constructed until details of the finished floor levels of the building hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

8. Notwithstanding any details submitted or 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 proposed dwelling shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected, including the retaining walls to the front of the existing property. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) 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 appearance of the area.

9. The proposed dwelling shall not be constructed until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
3. 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 landowner.
4. 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.
5. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Item **2.1**

Ref. No. **9/2016/1035/FM**

Applicant:
Mr William Ibberson
Younger Homes (Northern) Ltd
PO Box 25
Brighthouse
HD6 1WR

Agent:
Mr Grant Stott
Stott Thompson Architects Ltd
Rimani House
Hall Street
Halifax
HX1 5BD

Proposal: **THE ERECTION OF 2 NO. 2 STOREY 3 BED DWELLINGS AT LAND ADJACENT TO 45 THE POTLOCKS WILLINGTON DERBY**

Ward: **WILLINGTON & FINDERN**

Valid Date **24/10/2016**

Reason for committee determination

The item is presented to Committee at the request of Councillor Ford as local concern has been expressed about a particular issue and the unusual site circumstances should be considered by the committee.

Site Description

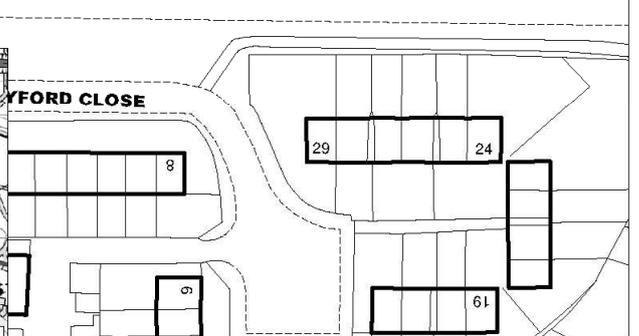
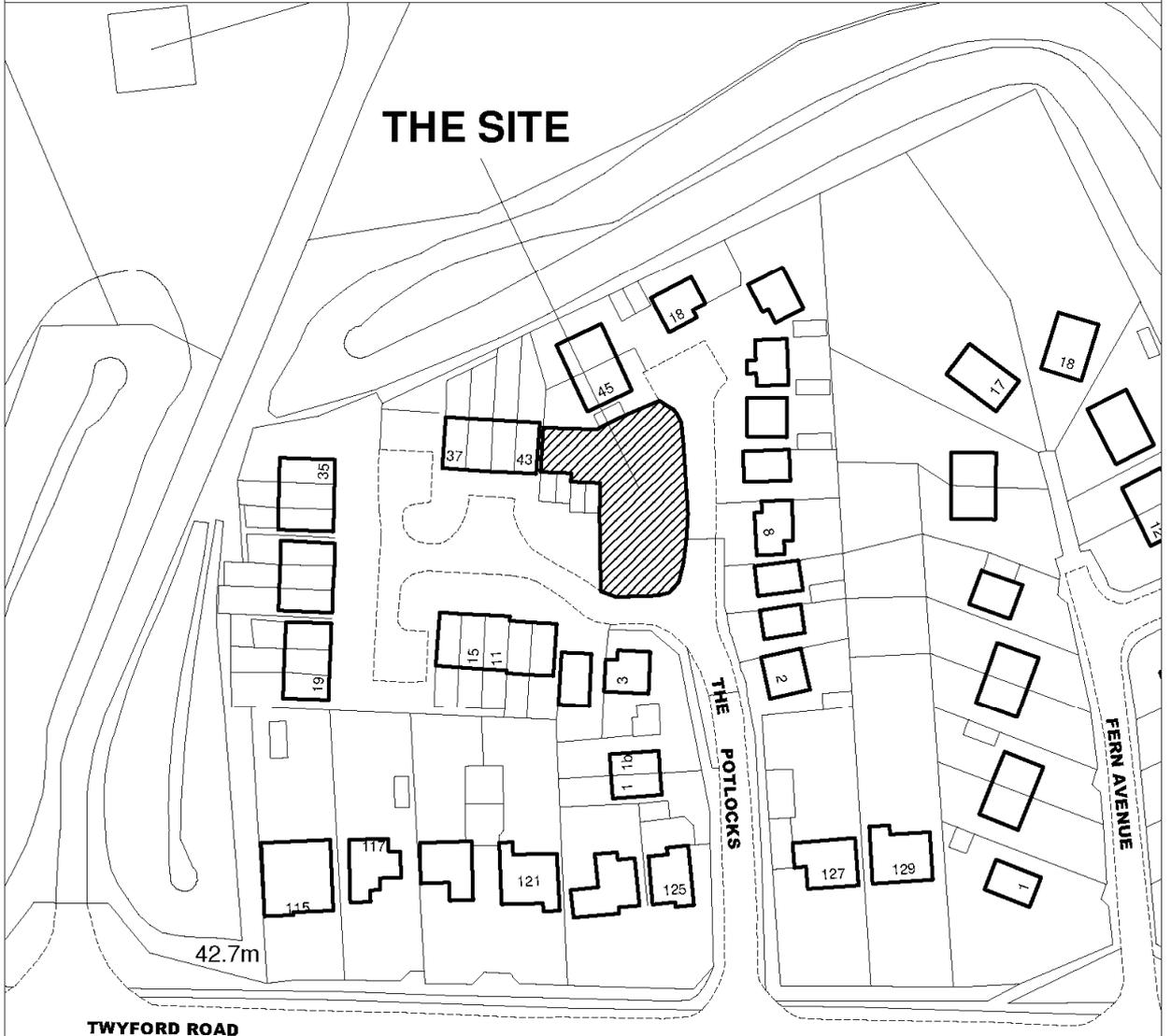
The Potlocks is a small development to the north of Twyford Road with linear development from Twyford Road opening out to a larger area via two sections of road with turning heads at each end and housing predominantly facing a central open space. It is this open space that is the subject of the application.

Proposal

Full planning permission is sought for the erection of two semi-detached two storey dwellings similar in appearance to the existing housing. Off-street parking would be provided for two cars per dwelling at the front of the dwellings one in tandem, the other in a side by side arrangement. Private gardens would be provided to the rear of the two dwellings.

Planning History

9/0290/1152/F – Development 29 dwellings on land to the rear of 115 Twyford Rd, Willington – Approved 22/03/1990
Section 215 Notice served 25/11/1996 (untidy land)



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Responses to Consultations

The County Highway Authority has no objection subject to a 2 metre service margin being maintained around the site as shown on the amended plans and any approval includes conditions relating to parking and vehicular access.

The Contaminated Land Officer has no objection to the proposal.

The Open Space and Facilities Manager would not wish to see the loss of this site given that the closest public recreation facilities or informal open spaces are 0.5 km away and children would need to cross a busy road with no safe crossing point. This site has been maintained by SDDC as public open space and as such the land should be offered to the Council for adoption.

Severn Trent Water Ltd has not responded.

Responses to Publicity

Willington Parish Council objects to the proposal on the basis that this piece of land has been maintained by SDDC for over 10 years and has been a public open space since it was left by the developers. There has never been any sign that this land belonged to anyone other than SDDC. It is not fair after all these years that the developers should lay claim to a piece of land that they have neglected, not maintained nor ever stopped people from using. The Parish has formally applied to the District Council to register the land as an asset of community value.

14 objections have been received, raising the following concerns/points:

- a) Increased traffic and lack of pavements mean that there is increased risk to pedestrians
- b) No boundary details shown between No 43 and one of the proposed rear gardens.
- c) Access to the rear of the garages for maintenance will be compromised by being in someone's private garden.
- d) Ground floor window of No 43 directly affected by the proposed rear garden of one of the new garden plots.
- e) High fencing not part of the open character of the area.
- f) The access road is quite narrow and some of the dwellings have no drives, this means that development of this corner would create a danger to anyone driving into the cul-de-sac.
- g) The land has been used as public open space for 20 years by the residents and deemed a safe place for children to play. Whilst no play equipment has been installed, it has long been regarded as a play area for local children.
- h) The Council has been mowing the grass for the last 20 years.
- i) The original housing scheme was approved on the basis that open space was provided on site. The green space is shown on amended plan.
- j) The design of the Potlocks makes parking difficult manoeuvring around parked cars not parked on driveways. Additional cars in the close will only exacerbate this and delivery/refuse lorries have already have difficulty.

- k) Construction traffic would cause disruption, danger and problems for residents continuing with their day to day activities.
- l) Privacy of surrounding homes would be adversely affected.
- m) No pavement provision incorporated in the proposal which would improve the safety of the current layout.
- n) Inability to manoeuvre off the proposed drives if cars park on road.
- o) Access for construction traffic will be very difficult as no space will be available for parking.
- p) Loss of vision across the cul-de-sac increasing the risk to both vehicles and pedestrians for an accident.
- q) Lack of visitor parking spaces for additional dwellings.
- r) The gardens to The Potlocks are small and were probably only considered acceptable as the shared amenity space was provided.
- s) Rights of way are being removed – whilst not adopted, access across the green space will be removed which may have been established in law.
- t) If the open space is not to remain in perpetuity, mis-selling of the dwellings may have occurred.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2, S6, H1, BNE1, INF2, INF9
- 1998 Local Plan (saved policies): H5, EV8

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1

National Guidance

- National Planning Policy Framework (NPPF) 6-10, 12, 14, 17, 29, 49, 56, 57, 64, 74, 186, 187, 206
- Planning Practice Guidance (PPG) ID 26 Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of development
- Loss of open space
- Scale and design

Planning Assessment

Principle of Development

The location of the site is within the confines of the settlement of Willington where new development is considered acceptable in principle. The settlement has a number of services and facilities, including a number of shops, a school and regular bus and rail services and as such the village is identified as a key service village, making this a sustainable site in general terms consistent with H1 of the Local Plan Part 1 (2016) and the Saved Policy H5 of the 1998 Plan. The proposal would lead to a small increase in terms of the intensification of housing as the proposal is for a single pair of semi-detached dwellings and the overall density, taken in the context of the overall site, would increase marginally but not substantially. Notwithstanding the concerns of neighbours, the site can physically accommodate the proposal without adverse impact on adjacent dwellings in this location.

The site was never formally adopted by the Council and as such the land was not transferred into the Council's ownership following completion of the existing 29 dwellings. The land has remained in the applicant's possession for over 20 years though no attempt to restrict its use has been made until late 2016 when a modest post and wire fence was erected shortly before the submission of this application. In March 2017 this post and wire fence was replaced with a heavy duty palisade fence which completely blocks entry to the open space. This fence is both within the highway and above 1 metre in height and therefore requires planning permission itself.

Loss of Open Space

The original permission outlined above was granted at the Potlocks for 29 dwellings following consultation and negotiation to include an area of public open space. Two dwellings in the location of the current proposal were removed to provide this public open space. Whilst the open space is not landscaped, the site was never landscaped by the developer and a Section 215 notice was served due to the state in which the land was left following the development of the houses, it forms an important part of the area being a focal point for the community and a valuable asset in terms of informal recreation space for its immediate neighbours. There is a strong relationship between the open space and the dwellings fronting it forming a significant characteristic of the area. There has been significant concern expressed at the potential loss of this relationship compromising the design of the original scheme. The site was laid to grass and has been maintained by the District Council over the life of the development. One objector has referred to an application for two dwellings in this location in the early 1990s which was allegedly refused but no record of this has been found.

Policy INF9 clearly states that current provision of open space, sports and recreation facilities is not sufficient to meet local demand and also states that exceptional circumstances would have to exist to grant permission where the loss of open space is involved. Where an assessment demonstrates that the existing level of open space and facilities exceeds the required level of provision or the loss would be compensated through equivalent or better provision development may be permitted.

No assessment has been provided in this case and no alternative provision offered in its place. Given the comments of the Open Space and Facilities Manager on the distance to the next available open space and the need to cross a busy road without a secure crossing point, the loss of this open space is considered contrary to INF9. This policy position is supported by paragraph 74 of the NPPF which also states that open space, should not be built on unless an assessment has been undertaken which clearly shows the open space to be surplus to requirements. Whilst no assessment has been provided it would be difficult to demonstrate that this open space was surplus to requirements given the distance to alternative provision. It is worth considering that the space also provides an open undeveloped central area of focus for the development which enhances the setting of the residential area.

Scale and Design

The existing properties on the Potlocks are a mix of terraced, semi-detached and detached one and two storey properties. The proposed development is similar in style to the existing semi-detached dwellings on the estate. The scale and design of the proposed dwellings is similar to the existing semi-detached dwellings on the Potlocks though they differ in detail with the front elevation having a small gable over one window of each property. The properties are wider than the existing dwellings by approximately 1 metre each, the pair being 11.2 metres wide and 11 metres deep including the bin store to the front and single storey 'lean-to' at the rear but would not be considered out of character. All windows face either north or south and adhere to the Council's distance guidelines as set out in the Housing Design and Layout SPG.

Neighbour objections make reference to the narrow road layout, lack of pavements in much of the estate and potential dangers of development in this location but in highway terms, no objection has been raised. The scale and design of the proposed dwellings therefore complies with Local Plan Policy BNE1 of the adopted Plan.

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

Recommendation

REFUSE permission for the following reason:

1. There is a strong relationship between the open space and the existing dwellings fronting it forming a significant characteristic of the area. The proposal would mean the loss of a valuable public open space and erosion of the inter-relationship between the dwellings and the open space as an intrinsic part of the area which is important to the local community and no justification by way of assessment or offer of alternative provision has been provided. The proposal is therefore contrary to Policy BNE1 and INF9 of the South Derbyshire Local Plan Part 1 2016 and paragraphs 57 and 74 of the National Planning Policy Framework; significantly and demonstrably outweighing the benefits brought about by the proposal.

Informatives:

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
E/2015/00177 & 9/2015/1036	Melbourne	Melbourne	Allowed	Delegated	113
9/2016/0162	Hilton	Hilton	Allowed	Committee	124



Appeal Decisions

Hearing and site visit held on 24 January 2017

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 01 March 2017

Appeal A Ref: APP/F1040/C/16/3152512

Appeal B Ref: APP/F1040/C/16/3152513

Land to the north of Station Road, Melbourne DE73 8BR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ['the Act'].
- The appeals are made by Mrs Amanda Jackson (Appeal A) and Mr Peter Jackson (Appeal B) against an enforcement notice issued by South Derbyshire District Council.
- The enforcement notice was issued on 20 May 2016.
- The breach of planning control as alleged in the notice is the siting of a residential caravan on agricultural land without planning permission.
- The requirements of the notice are to:
 - (1) Cease the use of the land for the siting of a residential caravan.
 - (2) Remove from the land the caravan presently sited there.
 - (3) Remove from the land any base provided in association with the residential caravan, including all materials used in its construction and any footings, to an authorised place of disposal.
 - (4) Remove from the land any sheds, outbuildings and any and all other unspecified chattels and structures provided in connection with the residential occupation of the land to an authorised place of disposal.
 - (5) Reinststate the land to its condition prior to the taking place of the breach of planning control by re-seeding to agricultural grassland
- The period for compliance with the requirements is 183 days.
- Appeal A and B are proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are allowed, the enforcement notice is quashed after corrections, and planning permission is granted in the terms set out below in the formal decisions.

Appeal C Ref: APP/F1040/W/16/3152494

Field Farm, Station Road, Melbourne, Derby DE73 8BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs P Jackson against the decision of South Derbyshire District Council.
- The application ref 9/2015/1036, dated 3 November 2015, was refused by notice dated 15 February 2016.
- The development proposed is described in the application form as follows: '*Siting of an agriculturally justified caravan to be continued in use until the dwelling simultaneously applied for is completed*'.

Summary of Decision: The appeal is allowed, and temporary planning permission granted.

Preliminary matters

1. The description of development given in the planning application form, and the Council's refusal notice, is unclear. In Appeal C permission is sought for continued use of land for the stationing of a caravan for human habitation. There is agreement that the proposal is better described as follows: *Change of use of land for stationing of a mobile home for human habitation.*

Matters concerning the notice

2. There are a few matters relating to the notice I discussed with the appeal parties. The notice as issued alleges a breach of planning control consisting of a material change of use, under section 171A(1)(a) of the Act. In reality the breach is the continuation of a residential use of the land after the planning permission from which it benefited expired. The latter initially granted on 6 January 2010 for change of use of land for the siting of a caravan for an agricultural worker for a 3 year temporary period (ref: 9/2009/0906/U) ['the 2010 permission'].
3. Condition 1) imposed on the 2010 permission states: *'This permission shall be for a limited period only, expiring on 31 December 2012 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period'*. The reason given is to enable the viability of the business to be established.
4. Prior to expiry of the 2010 permission, a further application to extend the period specified in condition 1) was granted on 7 January 2013 by the Council. That purports to grant a further temporary permission until September 2014 (ref: 9/2012/0951/B ['the 2012 permission']). In a similar vein, condition 1) of the 2012 permission states: *'This permission shall be for a limited period only, expiring on 31 December 2015 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period'*. The reason given is to enable the viability of the business to be established.
5. As I explained at the Hearing, the continuation of a use authorised by a planning permission granted for a limited period beyond the expiry of that period is not a change of use and not, in itself, development within the meaning of s55(1) of the Act. The issued notice is therefore incorrect and to accurately reflect the breach that has occurred, it should have alleged a failure to comply with a condition subject to which planning permission has been granted, under s171A(1)(b) of the Act. Although erroneously drafted, I am not persuaded it left any party in doubt as to what activity was being enforced against, given the way and manner in which the appeal parties have presented their arguments.
6. If the necessary correction were made, the deemed planning application under s177(5) of the Act, by analogy with s73A(3)(b), would be for the development originally permitted but without condition 1), with effect from the day following the date when the limited period imposed by that condition expired. Should the appeal on ground (a) succeed, I would grant a new permission on the deemed planning application, with any conditions that I consider to be appropriate.

7. In such circumstances, the planning considerations relating to the material change of use alleged in the issued notice, as addressed by both main parties in evidence, do not differ in any way from those relevant to a breach of condition 1) imposed in the 2012 permission.
8. Therefore, I shall correct the notice to reflect the reality of the breach. The envisaged corrections do not address defects that result in a substantially different notice. In my judgement, the notice, as issued, is not so fundamentally flawed that it is beyond correction.

Appeals A, B and C - Ground (a) and s78

Main issue

9. The reason for issuing the notice and refusing planning permission focus on lack of agricultural justification for a rural worker to live at the site. The common main issue is whether there is an essential agricultural need for someone to reside on the site.

Planning policy

10. The development plan includes certain policies of the South Derbyshire Local Plan 1998 (LP), which have been saved following a Direction made by the Secretary of State, and Local Plan Part 1 adopted on 13 June 2016 (LPP1). Paragraph 215 of the National Planning Policy Framework records that due weight should be given to relevant policies in existing plans according to their degree of consistency with it. I find no significant conflict with the NPPF in respect of the development plan policies cited by the appeal parties.
11. The draft Local Plan part 2 (LPP2), which will replace the current LP, has been submitted to the Secretary of State for public examination in January 2017. Emerging policy BNE5 and H25 relate to proposals outside of settlement boundaries and rural workers dwellings. The purpose of these reflect national planning policy in the NPPF. However, the LPP2 is yet to be found 'sound' and formally adopted. Having regard to NPPF paragraph 216, I attach it limited weight in the context of this appeal because it might change in the future.

Reasons

12. The site is situated in the countryside where residential development is strictly controlled, though the Council has no objections to the location of the mobile home in terms of its visual effect. The appellants seek planning permission to continue stationing the mobile home for human habitation purposes limited to a period of 3 years based on essential need in connection with a rural enterprise.
13. It is for Mr and Mrs Jackson to show essential need for a rural worker to live permanently at or near their place of work. In this particular location, relevant local and national planning policies would not be satisfied unless a special justification for the agricultural dwelling can be shown. Given that the main thrust of the NPPF and relevant LP policy is to achieve sustainable development, it is reasonable to consider functional need and viability. Otherwise, the planning system would, potentially, be open to abuse because a rural business may be financially unsustainable yet establish a functional need for a rural worker to live permanently at or near their place of work. Nonetheless, as circumstances can vary infinitely, functional and financial tests

- should not be applied rigidly but with a margin of flexibility, and with a view of securing the underlying purposes of policy.
14. The holding is 13.8 hectares of mainly grade 2 agricultural land¹. It includes a range of modern farm buildings. The enterprise started in about 2009 and at the time the Council were of the view that, subject to provision of livestock buildings², there was an essential need for at least one stockman to reside permanently on the site. This is because of the anticipated scale of the livestock farming enterprise. It was considered that the enterprise would be sustainable based on business plans³. However the Council say matters have not progressed and the enterprise has no reasonable prospect of success, because the initial business plan was flawed.
15. Mr and Mrs Jackson have resided at the site for about seven years and that is considerable period of time. Nevertheless, a totally new enterprise has been set up with minimal resources. The amount of work undertaken to date is, in my view, impressive albeit that this has yet to blossom into a well-established profit-making enterprise. A number of livestock is in place and the farm has a record of accomplishment in horticulture. But continuing economic uncertainty has had an impact on progress as well as improving condition of the land, diligent acquisition of farm machinery and construction of farm buildings on a do-it-yourself basis. These activities in combination have taken longer than anticipated. The added complexity is a difference of opinion between Mr and Mrs Jackson and their first agricultural advisors about the farm's overall direction. That led to significant delay in establishing horticultural element of the business at a very early stage.
16. I consider that the explanation given as to why there has been a delay in establishing this enterprise is plausible. Indeed, from what I heard, it would be very difficult to flout the passion to achieve agricultural aims, a key part of which is the livestock and horticultural element. Mr and Mrs Jackson appear genuine and committed to this enterprise; it did not come across to me as if the nature and scale of operations amount to a hobby or part-time farming activity.
17. In support of the need for a residential presence on the site, a new agricultural appraisal by Stephen Locke Associates, dated August 2016, has been prepared. This formed the basis of extensive debate. It focuses on expanding the livestock element and expansion of the existing free-range egg production to at least 1200 laying birds, the intensification of market garden crop and top soft fruit, production of bedding plants and sale of hanging baskets as well as the rotational use of wheat and grassland. Complementary income stream from sale of laurel garlands and wreaths is also anticipated.
18. Having regard to an industry-based Agricultural Budgeting and Costing Book (2015), the projected labour requirement increases to 2.04 full-time workers. Currently, a labour requirement of at least one full-time worker exists given the nature of this commercial enterprise. The question, however, is whether there is still a need for this full-time worker to be on hand day and night thereby justifying the temporary dwelling.

¹ DEFRA Agricultural Land Classification.

² Agricultural buildings to facilitate the poultry business (Council refs: 9/2009/0908/NA prior approval not required dated 20 November 2009, and 9/2009/0307/NO dated 6 January 2010).

³ Sansom Hamilton and Co July 2009.

19. I am not satisfied that the vegetable, horticultural and decorative hedging, in themselves or combined, require a continual on site residential presence. The nature and type of work involved, including crop husbandry, could take place during normal working hours; night time work is likely to be very limited indeed and any seasonal variation could be accommodated by another way. Even if this element of the business is dramatically increased by the introduction of polytunnels as proposed, it does not automatically follow that a functional need arises for worker's accommodation on the site.
20. On the other hand, animal welfare is at the forefront of Mr and Mrs Jackson's minds. I am cognisant that the livestock element is very important to the long-term viability of the farm. It seems that, given time to develop and expand as anticipated in the Locke report, this element of the business has the potential to grow into a viable enterprise. There is, and would be, a need to carefully manage and monitor the flock because of its scale and size. Additionally, Mr Jackson explained on occasions he had to respond quickly to emergencies and security breaches after normal working hours. I acknowledge that automated systems have their place, but there is need to effectively deal with the failure of power supply affecting plant and machinery, given the potential for premature loss of valuable livestock. Furthermore there is a need to deal with any predator attack or outbreak of disease decisively and quickly, because of the number of livestock.
21. The site is accessed via a rural road network and is generally remote from nearby settlements and there is a public footpath nearby. Mr Jackson's unchallenged evidence is that there have been security breaches. Although the protection of livestock from theft or injury by intruders carries some weight in support of a temporary agricultural dwelling, these reasons alone would be insufficient. Nevertheless, given the specific evidence about damage to plant and machinery on the holding, a 24-hour residential presence would assist in securing the site from potential intruders.
22. Taking all of the points in the preceding paragraphs together, there is a need for at least one full-time rural worker to run and manage the enterprise and to be on hand day and night. Currently, Mr Jackson fulfils this role although his wife would provide additional support when the business expands. Apart from the caravan, there is no existing dwelling on the unit to meet the identified need. There is a clear functional need which cannot be fulfilled by another existing dwelling on the unit or any other existing accommodation in the area, which is suitable and available for occupation by the worker concerned.
23. I now examine viability of the enterprise. The Council say accounts of the farm business have not been presented, but a new enterprise is being established. Additionally, details have been included in the Locke report. The latter shows that the business now operates in year 1, which is 2016, year 2 being 2017 – 2018 and year 3 is 2018 – 2019. Should the enterprise progress according to plan, it will be down to Mr and Mrs Jackson to produce sufficiently clear and precise corroboratory evidence to substantiate any future application for a permanent agricultural worker's dwelling.
24. There was some disagreement as to whether income generated by the decorative hedging element should be included. Taking this into account the enterprise as a whole is viable and sustainable. Whilst this type of activity is not directly linked to livestock farming, the nature and type of activity

- comprised in laurel wreath and garlands appears to be agriculture because plants are grown and harvested from the land. The activity is current and supports the farming enterprise. In my opinion, it would be unreasonable to simply exclude income from Mrs Jackson's business on the basis that it is not directly linked to the livestock farm.
25. The assumptions about livestock prices, estimated type and fixed costs associated with a breeding enterprise of this kind are unchallenged. The Council, however, challenge price for free-range eggs sales at an average of £1.75 per dozen. Mr Jackson maintained that he supplies to local hotel chains and retail outlets and that rate is achievable. He argues that his asking price is realistic given current market conditions. Provided his assumption is correct, he anticipates egg sales would generate potential income of £22,392 in 2017.
26. The detail showing income and expenditure year-end 31 March 2016 shows that Mr Jackson's enterprise made £15,313 gross profit in 2015 and £18,968 in 2016. Net profit is £184 and £7,337 respectively. Mrs Jackson's part of the business (5 April 2016) shows £12,348 gross profit in 2015 and £14,346 in 2016; net loss of £261 in 2015 but profit of £10,949 in April 2016. The projections for the enterprise as a whole show margins to be: £45,021 in 2017; £50,281 in 2018 and £56,817 in 2019. By year-end 2017 net profit would be reasonable and suggests the business would be operating at profit, and there would be sufficient funds for an agricultural worker's wage. The prediction is that reasonable and sufficient taxable profits would be generated by the rural enterprise to provide a reasonable return. If the modified business plan projections are adhered to, it seems to me that the enterprise is likely to be viable in the medium to long term. I consider now is not the time to close down this new rural enterprise.
27. Provided performance follows reasonably normal and natural patterns, the scale of the enterprise has a good prospect of succeeding in the longer term. I acknowledge that the information previously submitted to the Council generated some scepticism as to Mr and Mrs Jackson's intentions, but the evidence now presented shows there is a greater focus on what needs to be done. I consider that a further opportunity should be given because there is no significant risk that this enterprise would cease in the very near future.
28. On the main issue, in my planning judgement, the evidence now presented shows there continues to be an essential agricultural need for someone to reside on the site. Clear evidence has now been presented, to my satisfaction, which shows that the enterprise has been planned on a sound, realistic and justified financial basis. Having regard to guidance found in the Department's Planning Practice Guidance (PPG)⁴, I take the view that, on the particular facts and circumstances of this case, a further limited trial period is justified and ought to be granted so that the appellants can demonstrate viability of this rural enterprise.
29. Accordingly, the change of use of the land for the stationing of a mobile home for human habitation, subject to conditions, would not materially conflict with LP policies EV 1 and EV 5, LPP1 S2 and H1, and NPPF paragraph 55 in particular, and would be broadly consistent with emerging LPP2 policies BNE5 and H25.

⁴ Paragraph 014 reference ID:21a-014-20140306.

Appeals A, B and C - conditions

30. I have considered suggested conditions in the light of advice contained in the PPG. The development is retrospective and a commencement condition is therefore not necessary in Appeal C. There is a proven essential need for one rural worker to live permanently at this site. Planning permission is granted for a temporary period of 3 years to facilitate this residential use, because of the identified agricultural need and to demonstrate viability. It is necessary to impose a time limit condition. A suitably worded stipulation would enable the local planning authority to maintain control over the development, which is temporary in character and reassess the agricultural need for the caravan. Furthermore, a restoration scheme should be required. To avoid any doubt, it is necessary to stipulate only one mobile home is allowed. Given the location of the site, a condition stating that the caravan shall only be occupied by a person(s) solely or mainly or last working in agriculture, which is defined in s336(1) of the Act as amended, is required.
31. Layout drawings show the location of the static caravan but it is unclear because the timber decking and sheds are not included. External lighting needs to be controlled given the exposed positioning of the caravan. Drainage detail need submitting. The appellants accept a retrospective type condition with strict timescales, which should ensure the details are submitted, given that the caravan is already on site. However, there is no need to provide soft planting to screen the caravan given temporary nature of the scheme.

Appeals A, B and C - overall conclusions

32. Having considered all other matters, I conclude that Appeals A, B and C should succeed on ground (a) and planning permission will be granted. Appeals A and B ground (g) does not therefore need to be considered as the notice will be quashed.

Formal decisions - Appeal A and B

33. It is directed that the enforcement notice be corrected by:

- (i) in section 1, THIS IS A FORMAL NOTICE, the replacement of the text *section 171A(1)(a)* with *section 171A(1)(b)*;
- (ii) in section 2, the land to which this notice relates, the deletion of the text identifying the land and substitution therefor by: *Field Farm, Station Road, Melbourne, Derby DE73 8BR shown edged in red on the plan attached to the enforcement notice*, and
- (iii) the replacement of the wording in section 3, the breach of planning control alleged, in its entirety with and substitution therefor by:

Planning permission was initially granted on 6 January 2010 for change of use of land for the siting of a caravan for an agricultural worker for a 3-year temporary period (ref: 9/2009/0906/U). Condition 1) states 'This permission shall be for a limited period only, expiring on 31 December 2012 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period'.

A further application for planning permission to extend the period specified in condition 1) of planning permission ref: 9/2012/0951/B was granted on 7 January 2013, subject to the following condition 1):

'This permission shall be for a limited period only, expiring on 31 December 2015 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period'.

This condition has not been complied with in that the mobile home remains stationed on the land and is occupied for human habitation.

34. Subject to the above corrections, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely, change of use of land for the siting of a caravan for an agricultural worker for a 3 year temporary period at Field Farm, Station Road, Melbourne, Derby DE73 8BR, as shown on the plan attached to the notice subject to the following conditions:
- 1) The planning permission hereby granted for the siting of a caravan for an agricultural worker shall be for a limited period being the period of 3 years from the date of this decision. The residential use of the land hereby permitted shall be discontinued and the land restored to its former condition on or before the expiry of three years from the date of this decision, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
 - 2) There shall only be one (1) static caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.
 - 3) The occupation of the mobile home hereby permitted shall be limited to a person or persons solely or mainly, or last working in agriculture (as defined in section 336 of the Town and Country Planning Act 1990 (as amended), in the locality or to the spouse, widow or widower of such a person and to any resident dependants.
 - 4) The residential use of the land and siting of a caravan hereby permitted shall cease and the caravan removed from the land within 183 days of the date of failure to meet any one of the requirements set out in (i) to (v) below.
 - (i) Within two months of the date of this decision, full details of the type, location and siting of the caravan, timber decking, timber sheds or buildings used ancillary to the residential use, detail for drainage and external lighting (herein known as 'the scheme'), shall be submitted to the local planning authority together with an implementation and timetable.
 - (ii) Within ten months of the date of this decision the scheme and timetable submitted pursuant to (i) above shall have been approved by the local planning authority or, if the local planning

- authority refuses to approve them or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme and timetable shall have been approved by the Secretary of State.
 - (iv) The scheme shall have been fully implemented in accordance with the approved details and timetable pursuant to (i) to (iii) above.
 - (v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal C

35. The appeal is allowed and planning permission is granted for change of use of land for stationing of a mobile home for human habitation at Field Farm, Station Road, Melbourne, Derby DE73 8BR in accordance with the terms of the application, ref 9/2015/1036, dated 3 November 2015, subject to the following conditions:
- 1) The planning permission hereby granted for the siting of a caravan for an agricultural worker shall be for a limited period being the period of 3 years from the date of this decision. The residential use of the land hereby permitted shall be discontinued and the land restored to its former condition on or before the expiry of three years from the date of this decision, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
 - 2) There shall only be one (1) static caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended shall be stationed on the site at any time.
 - 3) The occupation of the mobile home hereby permitted shall be limited to a person or persons solely or mainly, or last working in agriculture (as defined in section 336 of the Town and Country Planning Act 1990 (as amended), in the locality or to the spouse, widow or widower of such a person and to any resident dependants.
 - 4) The residential use of the land and siting of a caravan hereby permitted shall cease and the caravan removed from the land within 183 days of the date of failure to meet any one of the requirements set out in (i) to (v) below.
 - (i) Within two months of the date of this decision, full details of the type, location and siting of the caravan, timber decking, timber sheds or buildings used ancillary to the residential use, detail for drainage and external lighting (herein known as 'the scheme'), shall be submitted to the local planning authority together with an implementation and timetable.
 - (ii) Within ten months of the date of this decision the scheme and timetable submitted pursuant to (i) above shall have been

- approved by the local planning authority or, if the local planning authority refuses to approve them or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- (iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme and timetable shall have been approved by the Secretary of State.
 - (iv) The scheme shall have been fully implemented in accordance with the approved details and timetable pursuant to (i) to (iii) above.
 - (v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

A U Ghafoor

Inspector

APPEARANCES

FOR THE APPELLANT:

John Steedman	Steedman Planning
Stephen Locke	Stephen Locke Associates
Peter Jackson	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Richard Stewart BSc (Hons) MA TP MRTPI	Planning Officer, South Derbyshire District Council (SDDC)
Alan Barrett	Planning Enforcement Officer, SDDC
David Hughes BSc (Hons) FBIAC	Agricultural Consultant, SDDC

DOCUMENTS HANDED IN AT THE HEARING

- 1 Hearing notification letter by the Council.
- 2 Schedule of proposed modifications to Local Plan Part 2 by the Council.
- 3 Extract copy of Local Plan (1998) by the Council.
- 4 Extract copies of planning permissions granted by the Council.
- 5 Field Farm budget 2017 by the appellant.

Appeal Decision

Site visit made on 5 January 2017

by **Jason Whitfield BA (Hons) DipTP MRTPI**

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

Decision date: 6th February 2016

Appeal Ref: APP/F1040/W/16/3160135

Land Adjacent to The Mandarin Chinese Restaurant, Egginton Road, Hilton, Derby DE65 5FJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Lee against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/0162, dated 18 February 2016, was refused by notice dated 20 July 2016.
 - The development proposed is outline application (all matters to be reserved) for the erection of up to 47 dwellings with associated access, public open space, sustainable drainage and landscaping.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping at Land Adjacent to The Mandarin Chinese Restaurant, Egginton Road, Hilton, Derby DE65 5FJ in accordance with the terms of the application, Ref 9/2016/0162, dated 18 February 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The description in the heading above is taken from the original application form. It was agreed during the course of the application that the description of the proposal be amended with the number of dwellings reduced from up to 47 dwellings to up to 34 dwellings. The LPA's description on the decision notice reflects this. I have therefore dealt with the appeal on that basis and the revised description is reflected in the formal decision above.
3. The application was submitted in outline with all matters reserved for future consideration. The proposal was amended following submission to the Council but prior to its determination. The changes, as shown on amended plans which are for indicative purposes only, reduce the proposed number of dwellings from 47 to 34. I am satisfied that no party would be prejudiced by my consideration of the amended scheme. I have, therefore, determined the appeal on that basis.

Main Issues

4. The main issues are:
-

- Whether the development would accord with development plan policies relating to the location of development in the District.
- The effect of the proposal on the character and appearance of the area.

Reasons

Location

5. Saved Policy H5 of the South Derbyshire District Council Local Plan 1998 (LP) states that new housing in Hilton will be restricted to that which can be accommodated within the village confines. The village confines are drawn around the northern part of Hilton.
6. Saved Policy H8 of the LP states that outside settlements, new housing development will be permitted provided that it is necessary for rural based activity, that a countryside location is necessary to the efficient operation of that activity, that the site is well related to existing farm buildings or other dwellings, and the dwelling is of a size commensurate with the functional requirement of the activity.
7. Saved Policy EV1 of the LP states that outside settlements, new development will not be permitted unless it is essential to a rural based activity, or it is unavoidable in the countryside and the character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected.
8. The appeal site is outside of the settlement boundary for Hilton and seeks consent for residential development which is not linked to any rural based activity. Moreover, the proposal would not be essential to a rural based activity nor is there any evidence that it would be unavoidable in the countryside. As a result, the appeal proposal would conflict with Policy H5, Policy H8 and Policy EV1 of the LP.
9. However, paragraph 14 of the National Planning Policy Framework (the Framework) states that at the heart of the Framework is a presumption in favour of sustainable development. For decision taking this means that where relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
10. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
11. It had been common ground between the main parties that the Council was able to demonstrate a five-year supply of deliverable housing sites and therefore relevant policies for the supply of housing were up-to-date and the presumption set out in paragraph 14 would not be engaged. However, the appellant has since referred to a recent appeal decision¹ at Jawbone Lane, Melbourne, Derbyshire in which the Inspector concluded that the Council had not demonstrated a five-year supply of deliverable housing sites. To that end,

¹ APP/F1040/W/16/3147682 – Jawbone Lane, Melbourne, Derbyshire DE73 8BW, Decision Date 6 December 2016

- the appellant is of the view that Policies H5, H8 and EV1 are no longer up-to-date for the purposes of paragraph 49 of the Framework and that the presumption set out in paragraph 14 of the Framework should be engaged.
12. The Council disagrees with the method used by the Inspector in the Jawbone Lane appeal for calculating the five-year supply, noting that the Inspector stated that a supply would be demonstrable from 2017-2022. It is therefore the Council's view that a five-year supply of deliverable housing sites can be demonstrated and therefore paragraph 49 would not apply.
 13. Notwithstanding the dispute between the parties over whether or not a five-year supply can be demonstrated, if I were to take the Council's view that it can be, it would nevertheless remain incumbent on me to apply paragraph 215 of the Framework which states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
 14. I note that the LP is time expired, however, paragraph 211 of the Framework is clear that policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Nevertheless, the emerging South Derbyshire Pre-Submission Local Plan Part 2 2016 (LPP2) contains a revised settlement boundary for Hilton. The appeal site would lie outside of, but adjacent to the proposed revised settlement boundary. Although the relatively early stage of preparation means I can afford only limited weight to the policies of the LPP2, it nevertheless reflects the growth of Hilton since the LP. It is apparent that the extent of development within Hilton has resulted in much of the settlement expanding beyond the boundaries set under Policy H5. Indeed the appeal site lies adjacent to an allocated South Derbyshire Local Plan Part 1 2016 (LPP1) housing and employment site. Settlement boundaries would have been fixed, having regard to the need to accommodate development planned over the, now expired, LP period. Defined settlement boundaries have the effect of constraining development, including housing, within settlements. On that basis, with reference to paragraph 215 of the Framework, the settlement boundaries set out in Policy H5 of the LP are out of date.
 15. Furthermore, whilst I recognise that Policy H8 and EV1 of the LP seek to protect the character and appearance of the countryside, in my view they are significantly more restrictive than the more balanced approach set out in the Framework. The Framework does recognise the intrinsic character and beauty of the countryside and the need to protect and enhance valued landscapes. However, in contrast to Policy H8 and EV1 of the LP, it does accept that development maybe permitted unless adverse impacts in respect of those factors would significantly and demonstrably outweigh the benefits.
 16. As a result, having regard to Paragraph 215 of the Framework, I consider Policies H5, H8 and EV1 of the LP are not wholly consistent with the Framework and are, therefore, out-of-date. To that end, I afford those policies limited weight. In the finding that relevant policies are out-of-date, paragraph 14 of the Framework is engaged and the balancing exercise required will be returned to later in the decision.

Character and Appearance

17. The appeal site comprises the Mandarin Restaurant on Egginton Road, Hilton and the land surrounding it. The restaurant sits towards the front of the site on Egginton Road, with a large car parking area adjacent. To the rear, the land is predominately flat fields with existing hedgerows and trees. It contains a dilapidated set of brick buildings which were previously used as stables.
18. The site is bound by Egginton Road to the north-east, with a field separating the site from residential properties to the north-west. To the west and south lies a significant expanse of built form containing commercial and industrial uses. In my view, the appeal site and its surroundings are characterised by their transitional role between the open countryside to the south and Hilton to the north. To that end, the character of the area could reasonably be described as suburban.
19. Although the site could not be described as being within the urban area, it is in reasonable proximity to it with defensible boundaries in the form of Egginton Road and the former access road to the Business Park site. Whilst the pattern of built development in the area is more sparsely arranged than in the denser, urban area of Hilton, the appeal site nevertheless lies at the end of a ribbon of development along Hilton Road which includes residential properties. Moreover, it is surrounded largely by employment related uses, including a significant expanse of development containing commercial and industrial uses to the south and west.
20. However, the appeal proposal would introduce a significant level of built form into an area of predominately flat and open grassed land where presently little exists. The existence of dwellings and associated hard surfaced areas would be relatively apparent from several vantage points in the area, including the adjacent cycleway. As a result, it would result in a change to the character and appearance of the appeal site.
21. I conclude, therefore, that the proposal would result in harm to the character and appearance of the area. The proposal would conflict with Policy EV1 of the LP as well as Paragraphs 17 and 109 of the Framework insofar as they seek to protect the character of the countryside and landscapes. Nevertheless, for the reasons above, such harm would be minimal.

Planning Obligations

22. A signed and completed S106 agreement has been submitted. It would secure financial contributions from the appellant of £79,793.07 towards the provision of 7 primary places at Hilton Primary School, £103,057.02 towards the provision of 7 secondary places at John Port School and £55,883.70 towards the provision of 3 post-16 places at John Port School. In addition, it would secure financial contributions of £373 per person for play facilities at Hilton Village Recreation Ground, £220 per person for recreation outdoor facilities at either Mease Playing Fields or the bike pump track at Hilton Village Hall, and £122 per person towards either an extension to the scout hut at Peacraft Lane or Phase 2 extension works at Hilton Village.
23. In addition to financial contributions, the S106 agreement would also secure 30% on site affordable housing and the provision of on-site public open space.

24. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
25. Paragraph 47 of the Framework makes clear that Councils should meet the full, objectively assessed need for affordable housing. Paragraph 50 sets out that this need should be met on site. Both parties agree that the 30% provision of affordable housing on-site is acceptable and on the basis of the evidence before me I have no reason to come to any alternative conclusion. Consequently, I consider that the proposed affordable housing scheme would be necessary, directly related, and fairly and reasonable related in scale and kind to the proposed development, in accordance with CIL Regulation 122, and paragraph 204 of the Framework.
26. With regard to the education contributions, the Council has indicated that the proposal would generate an increase in the number of pupils attending the identified schools. The evidence before me suggests that the primary school contribution would fund the development of additional external play spaces which are currently under pressure, whilst the secondary school and post-16 contributions would fund additional teaching accommodation which the school has identified in its long-term strategy and vision. Thus, I consider that the education contributions would be necessary, directly related, and fairly and reasonable related in scale and kind to the proposed development, in accordance with CIL Regulation 122, and paragraph 204 of the Framework.
27. The Council's S106 Agreements: A Guide for Developers SPD 2010 sets out the requirements and justification for contributions towards the provision and maintenance of on-site open space, off-site open space, outdoor facilities and built facilities. As a result, I consider that these contributions would accord with CIL Regulation 122, and paragraph 204 of the Framework.
28. From April 2015, CIL Regulation 123 (3) also restricts the use of pooled contributions. There is, however, no evidence before me that any of the obligations here raise any issue in respect of pooled contributions.

The Planning Balance

29. Paragraph 12 of the Framework is clear that the Framework does not change the statutory status of the development plan as the starting point for decision making. In this instance, I have found that the proposal would conflict with Policies H5, H8 and EV1 of the LP. Nevertheless, I consider those policies are out-of-date within the context of the Framework and have, therefore, considered the proposal in the context of the presumption in favour of sustainable development set out in the Framework and in Policy S2 of the LPP1.
30. Whilst the proposal would result in a change in the character of the appeal site, I have found that change would result in minimal harm to the character and appearance of the area. The weight applied to such harm is therefore limited.
31. In contrast the proposal would provide for significant on-site open space and would provide some ecological enhancements to the area. In addition, the

appeal site is close to Hilton which contains a good range of services, facilities and employment opportunities within reasonable proximity. There are good links to the centre of the village via the adjacent cycleway. It would therefore overall make a positive contribution to the environmental dimension of sustainable development.

32. Economically, the proposal would boost employment during the construction phase and increase spending in the local economy from future residents. Although the Council indicate it can demonstrate a five-year supply of housing land, the Framework nevertheless makes clear its intention to boost significantly the supply of housing. The proposal would make a considerable contribution towards boosting the supply of housing in the area. In addition, the proposal would make a provision of 30% of the dwellings delivered on the site to be affordable housing which would represent a significant benefit. To that end, the proposal would make a considerable contribution towards achieving the social and economic dimensions of sustainable development.
33. Whilst the proposal would secure contributions towards education and off-site recreation facilities, these would off-set the impact on those facilities from the additional demand arising from the proposed dwellings. They are, therefore, neutral factors in the balance, rather than benefits.
34. Nevertheless, taking all these matters into account and having regard to my conclusions on the main issues, I conclude that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. The proposal would, therefore, constitute sustainable development and would accord with the principles of the Framework, as well as Policy S2 of the LPP1.

Other Matters

35. It has been put to me that the proposal would put undue pressure on doctor's surgeries and other facilities which do not have sufficient capacity. However, I have not been given any detailed evidence which quantifies the extent of any local shortage or the need for any new facilities. Furthermore, as set out above the proposal would make a contribution towards education and recreational facilities to mitigate the additional demand arising from the appeal proposal.
36. I have had regard to the concerns of local residents regarding the increase in traffic arising from the development and the potential impact on the surrounding highway network. However, the indicative plans show that an access point could be accommodated with adequate visibility splays. Moreover, the indicative layout indicates that adequate parking could be accommodated on-site. Furthermore, there is no substantive evidence before me that the vehicular movements generated by the proposal would give rise to any particular harmful increase in traffic on Egginton Road or the surrounding network. I am satisfied, therefore, that the proposal would not give rise to severe impacts on highway safety.
37. Concerns have been raised about drainage and flood risk. However, representations from Derbyshire County Council's Flood Risk Management Team raise no objections and those of Severn Trent Water indicate that the proposals are acceptable if suitable schemes for foul and surface water are achieved by condition. There is no technical evidence before me to suggest

that such schemes would not be feasible and, consequently, I agree that this matter could be dealt with by way of condition.

38. I have had regard to the concerns raised in respect of the effect of the proposal on wildlife and ecology. However, the Habitat and Protected Species Survey submitted by the appellant makes recommendations to compensate for the loss of grassland habitat arising from the proposal and also to retain the ponds on the site. In addition, mitigation measures are recommended in respect of bats, badgers and birds. Conditions are recommended to secure such measures and I am therefore satisfied that the proposal would not unduly affect wildlife and ecology.

Conditions

39. In addition to the standard time limit conditions, I consider a condition requiring details of materials to be agreed necessary to protect the character and appearance of the area.
40. A condition in respect of parking spaces is necessary to ensure that the proposal makes adequate provision to prevent parking on the surrounding highway network. Furthermore, whilst access is a reserved matter, in order to ensure that access during construction does not have a harmful impact on highway safety on Egginton Road, a condition is necessary to require details of a temporary access to be submitted and agreed. For the same reasons, it is necessary to impose a condition which requires the existing access point to be closed to traffic before occupation of the proposed dwellings.
41. A condition requiring a construction management plan is necessary to mitigate harm to the living conditions of nearby residents and upon highway safety. I consider it necessary to impose a condition regarding surface and foul water drainage to ensure the site is appropriately drained and does not contribute towards the risk of flooding, as is accordance with the mitigation measures set out in the submitted flood risk assessment.
42. A condition requiring implementation of the mitigation measures and recommendations contained in the Phase 1 Habitat and Protected Species Survey is necessary to ensure all habitats and species are adequately protected. To ensure that all habitats on the site which are identified to be retained are protected from damage during the construction of the development, a condition requiring protective fencing to be installed is necessary.
43. Although no direct evidence of badgers has been recorded on site, they are known to be within the surrounding area. Therefore, conditions requiring a survey for the presence of badgers on or around the site, and for the installation of mitigation measures where appropriate are necessary to ensure the species is adequately protected. A condition is also necessary to ensure that measures to mitigate impacts on breeding birds are implemented and that habitat enhancement is carried out.
44. A condition requiring the submission of a landscape and ecology management plan is necessary to ensure that landscaped areas within the site are appropriately maintained and managed in the interests of ecology and the character of the area.

45. A condition relating to noise control between the proposed dwellings and the existing restaurant use is necessary to protect the living conditions of future residents, as is a condition relating to odour controls. A condition is also necessary to ensure that risks from potential land contamination to the future users of the site and surrounding land are minimised to acceptable levels.
46. Conditions in respect of boundary treatments, landscaping of the site and the site layout are not necessary as they fall within the definition of the matters reserved for subsequent approval. There is no evidence before me to suggest that the agreement of a lighting strategy is necessary. I have not, therefore, imposed a condition to that effect.

Conclusion

47. Whilst I have found that the proposal would not accord with Saved Policies H5, H8 and EV1 of the LP, for the reasons given above there are other material considerations, including the presumption in favour of sustainable development as set out in the Framework and Policy S2 of the LPP1 which would outweigh the conflict with those policies.
48. For the reasons given above and having considered all other matters raised, I therefore conclude that the appeal should be allowed.

Jason Whitfield

INSPECTOR

SCHEDULE

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until details, including samples, of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No dwelling shall be occupied until spaces have been laid out within the site for vehicles to be parked and those spaces shall thereafter be kept available at all times for the parking of vehicles.
- 6) No development shall commence until a temporary access for construction vehicles has been provided in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. The access shall have a minimum width of 5.5m, minimum radii of 6m, be constructed to base level and be provided with visibility sightlines of 2.4m x 103m in each direction. The area forward of the sightlines shall be cleared and maintained clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.
- 7) No dwelling hereby permitted shall be occupied until the existing vehicular access from the site onto Egginton Road has been permanently closed with a physical barrier in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority.
- 8) No development shall commence until a Construction Management Plan (CMP) has been submitted to and agreed in writing by the Local Planning Authority. The CMP shall provide for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitor's vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto the highway and any proposed temporary traffic signifying or restrictions. The CMP shall be implemented prior to the commencement of the development and thereafter shall be adhered to throughout the period of construction of the development hereby permitted.
- 9) No development shall commence until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented prior to first occupation of the dwellings hereby permitted in accordance with the agreed details.

- 10) All recommendations and mitigation measures detailed within Section 6 of the Phase 1 Habitat Follow up and Protected Species Survey dated 16 June 2016, including the provisions in respect of hedgerow planting, habitat retention, stripping works to the barn on site, the installation of bat boxes, external lighting, vegetation clearance and bird boxes, shall be implemented in accordance with a scheme to be first submitted to and agreed in writing by the local planning authority.
- 11) All habitats to be retained as identified in the Phase 1 Habitat Follow up and Protected Species Survey dated 16 June 2016 shall be protected by fencing. The location and type of the fencing shall be first submitted to and agreed in writing by the local planning authority. The fencing shall be erected in accordance with the agreed details before any equipment, machinery or materials are brought onto the site for the purposes of the development hereby permitted, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 12) No development shall take place until a survey for any recently excavated badger setts on the site or within 30m of the site boundary has been submitted to and agreed in writing by the Local Planning Authority. In the event that the survey identifies badger setts on the site or within 30m of the site boundary, no development shall take place until suitable mitigation measures have been fully implemented in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. The development hereby permitted shall thereafter be carried out in accordance with the agreed details.
- 13) No works which include the creation of trenches or culverts or the use of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipes and culverts have been submitted to and agreed in writing by the Local Planning Authority. The measures shall be retained as such for the entire construction period of the development hereby permitted.
- 14) No development shall commence until an enhancement and mitigation strategy for birds has been submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details.
- 15) For any phase, no development or other operations shall take place until a landscape and ecological management plan (LEMP) for the phase has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include details of the features to be managed and created, details of the management and monitoring of all ecological and landscape areas within the site and details of the implementation of the LEMP. The approved LEMP shall be implemented and subsequently maintained in accordance with the agreed details.
- 16) Prior to the construction of any dwelling hereby permitted, a scheme of noise control in relation to the restaurant shall be submitted to and agreed in writing by the Local Planning Authority. Any mitigation measures identified should be implemented in accordance with the

agreed scheme prior to first occupation of any of the dwellings hereby permitted and maintained as such thereafter.

- 17) Prior to the construction of any dwelling hereby permitted, a scheme of odour control in relation to the restaurant shall be submitted to and agreed in writing by the Local Planning Authority. Any mitigation measures identified should be implemented in accordance with the agreed scheme prior to first occupation of any of the dwellings hereby permitted and maintained as such thereafter.
- 18) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 19) The development hereby permitted shall not be occupied until the mitigation measures detailed within the submitted Flood Risk Assessment dated February 2016 (FRA), including the raising of floor levels and emergency access and egress have been fully implemented in accordance with the FRA. The measures shall be retained thereafter.

-----END OF SCHEDULE-----