

Date: 23rd December 2021

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 11 January 2022 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and
Councillors Gee, Pearson and Southerd.

Conservative Group

Councillors Bridgen, Brown, Lemmon, Muller and Watson.

Independent Group

Councillors Angliss and Dawson.

Non-Grouped

Councillor Wheelton

AGENDA

Open to Public and Press

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 112**
- 5** SECTION 106 VARIATION **113 - 114**

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 any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 8** THE FELLING OF A TREE COVERED BY TPO NO. 432 AT 59 JUBILEE CLOSE, MELBOURNE, DERBY, DE73 8GR

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

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
DMPA/2021/0164	1.1	Etwall	Etwall	6
DMPA/2021/0315	1.2	Scropton	Hilton	35
DMPA/2021/0756	1.3	Linton	Linton	73
DMPA/2021/1220	1.4	Willington	Willington & Findern	83
DMPA/2021/1475	1.5	Kings Newton	Melbourne	92
DMPA/2021/1264	1.6	Castle Gresley	Linton	104
DMPA/2021/0668	1.7	Stenson Fields	Stenson	109

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. DMPA/2021/0164

Valid date: 22/02/2021

Applicant: Sarah Armstrong

Agent: Redrow Homes Limited

Proposal: **Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on Etwall Common, Land at SK 2730 1591, East of Egginton Road and North of Jacksons Lane, Etwall Common, Derby**

Ward: Etwall

Reason for committee determination

The item was deferred from 9th November 2021 committee.

Executive Summary

The application was first brought before Planning Committee on 12th October 2021 and a decision was deferred to allow for a site visit. At the meeting on 9th November 2021, the application was again deferred due to concerns being raised in regard to flooding, noise and footpath provision on site.

Drainage of the site will result in a betterment on the current situation as surface water will be managed and the rate at which it enters the system will be slowed down by the engineered solutions to be provided on site. Run off will be reduced by circa 250%.

Environmental Health have no objection to the noise mitigation measures proposed – mechanical ventilation, position of dwellings, bund in the south west corner of the site, screen walls and acoustic fencing – and the proposal is considered to be policy compliant in this regard.

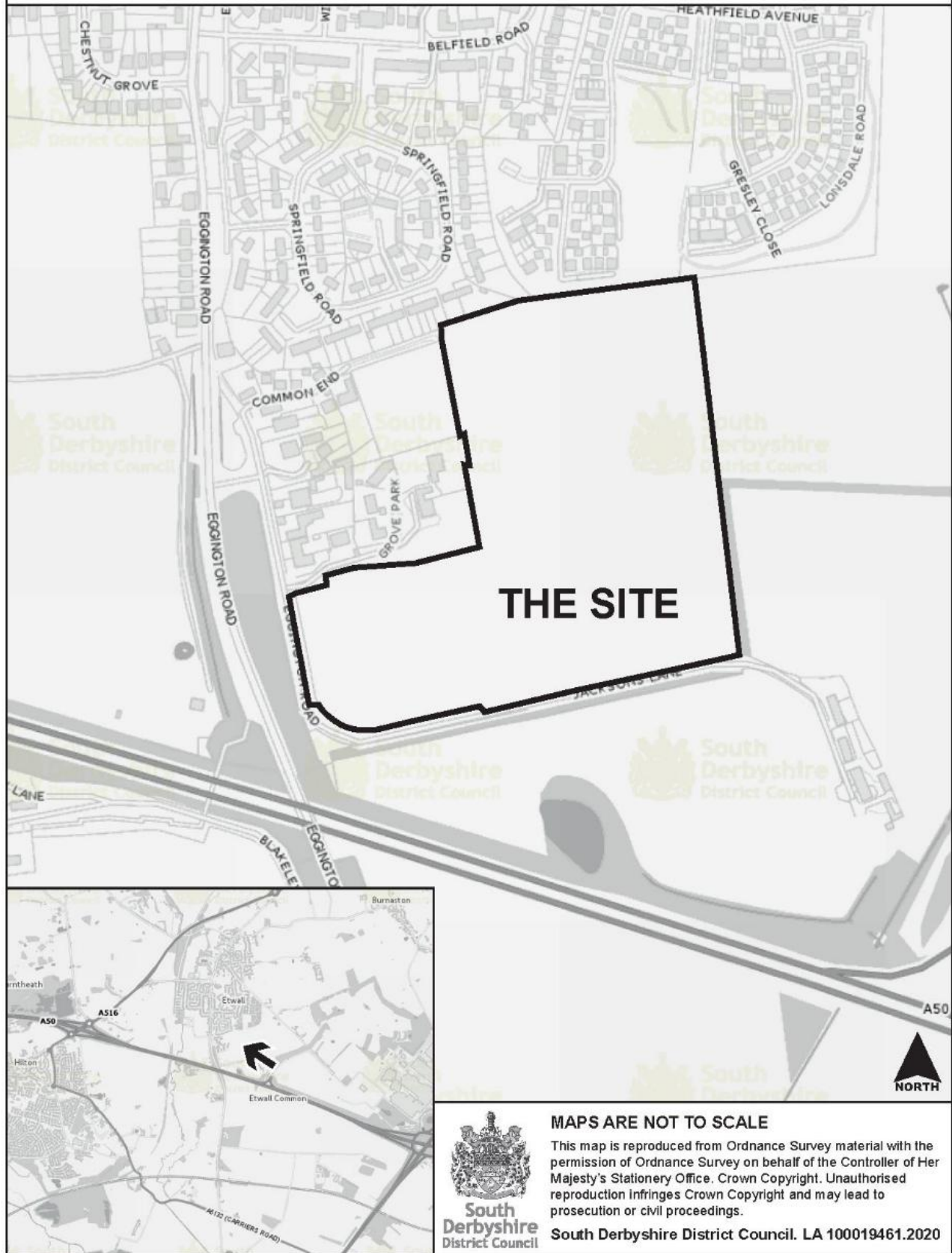
The footways proposed to be provided on site will aid pedestrian connectivity through the site and accord with Local Plan policy.

The Committee is asked to resolve that reserved matters be approved subject to the conditions listed at the end of this report.

Details of the Application

The application seeks permission for the approval of the reserved matters of access, layout, scale, appearance and landscaping following outline permission for the residential development of up to 50 dwellings with open space, drainage and associated works. The outline permission (9/2017/1191) has been superseded by DMPA/2020/0985, a s73 application to vary condition 9 (the skylark mitigation condition) of the previous outline consent which was approved at committee. This application therefore now seeks to approve the reserved matters following the permission issued for DMPA/2020/0985. In addition, permission is sought to remove the Design Code submission from the legal agreement which sits alongside the 9/2017/1191 and DMPA/2020/0985 permissions as it has been confirmed that Redrow will be the sole developer bringing the site forward. The proposals include a mixture of 2 no. three, 34 no. four and 14 no. five bedroom houses presented in gable and hipped roof style, each with a detached garage and off-road parking. In area A, 8 houses are proposed to the corner of Egginton Road and Jacksons Lane; in area B, 20 houses are proposed and in area C, 22 houses are proposed. The site will be accessed from Egginton Road which will lead to 4 adoptable streets from which sections of private driveway will lead to some plots. A total of 11,500sqm of public open space is proposed across the site

DMPA/2021/0614 - Etwall Common, Land at SK2730 1591, East of Egginton Road and North of Jacksons Lane, Etwall Common, Derby DE65 6NP



with numerous pathways, feature planting and seating areas planned and a 400sqm Local Equipped Area for Play (LEAP). The external facing materials for the dwellings are Ibstock Leicester Weathered Red Stock and Ibstock Arden Olde Farm House bricks and red/slate grey Forticrete Gemini roof tiles, with some dwellings featuring Weberpral M render chalk. A variety of boundary treatments are proposed including 1.8m brick screen walls, 1.8m close boarded fencing, 1.8m close board feature fencing and 2m acoustic fencing. Retention of existing mature hedgerows is proposed. A 15m landscaped buffer is proposed to the eastern boundary with other areas of planting proposed, including tree lined Street 1 and various adoptable verges. To the boundaries of the site are the surface water drainage features comprising swales, ponds and ditches with a series of flow control leading to surface water outfall areas. Footpaths are also proposed throughout the site to create a circular route through and also providing footpaths up to the northern boundary with the recently erected housing site off Willington Road, to the west towards the Common Lane allotments and south onto the corner of Jacksons Lane.

Relevant Policies and Guidance

The relevant policies have previously been set out in the original committee report, attached as an appendix.

Further consultation responses

One further neighbour response has been received (in addition to those included in the 9th November 2021 report appended) which included two photographs of flooding on Jacksons Lane after a few hours of rainfall and states it is the worst it has been in 20 years.

Environmental Health have advised that the mechanical ventilation proposals are acceptable.

Assessment

The applicant has submitted additional information, including further details of proposed mechanical ventilation, a summary response to members concerns and an application (DMOT/2021/1664) to discharge conditions 18 and 19 of the outline permission. These two conditions relate to surface water drainage and the comments of the Lead Local Flood Authority on this submission are awaited.

The surface water drainage design proposed by the applicant will result in a betterment and the applicant has advised that *The proposed scheme provides a significantly reduced run off via the positively drained system, circa 250%. Any existing pluvial flooding that was raised at committee will disappear because of the above.* The LLFA have not objected to the reserved matters submission and likewise, did not object to the grant of outline permission, subject to conditions.

In terms of concern about noise from the A50 and the proposed Freeport affecting the residents, Environmental Health are satisfied with the noise mitigation measures proposed. There is no requirement for the applicant to mitigate noise from the Freeport as that development does not exist yet. It will be the responsibility of the Freeport developer to mitigate noise when they bring their scheme forward. The noise mitigation measures proposed for the development – bund, acoustic fencing, brick screen walls, housing layout to minimise number of dwellings orientated towards the A50 and use of mechanical ventilation in rooms which face the A50 – are considered to be acceptable. Since the November committee, despite no objection from Environmental Health, the applicant has reviewed their noise mitigation proposals and is now including mechanical ventilation in the dwellings with rooms facing the A50. This is over and above the recommendations within their noise report. Further details of the ventilation, bund and acoustic fencing and their provision will be secured by condition.

This is a reserved matters application so is solely considering the details of the access, layout, scale, appearance and landscaping of the scheme. Matters of drainage and noise mitigation relate to the principle of the development and were therefore considered at outline and are not relevant considerations to this reserved matters application. The site is allocated for housing in the Local Plan.

No statutory consultee has raised an objection in regard to flooding or noise so a refusal of the reserved matters on this basis could not be substantiated.

In regards footpaths, the applicant has stated the following: *We have provided footways to aid pedestrian connectivity throughout the site. Wider linkages to Bloors and the allotments can only be bought up to the boundary.*

The off-site footway raised by the adjacent resident is something that Highways have requested. In all fairness it is needed as the existing footpath is substandard i.e. insufficient for a pushchair/ wheelchair and side by side passing of pedestrians.

The provision of footpath links across the site and to adjacent sites is a policy requirement (H23B) and accords with condition 3 of the outline. There is considered to be good surveillance of the paths from the proposed dwellings. The site frontage footpath will provide a sufficient width for wheelchair and pushchair users. In relation to the concern raised about possible use of the land to the north of plots 1, 3 and 4 as a through route to the POS, the applicant has confirmed this will be landscaped and will not be a through route as it will be gated at either end.

Conclusion

The reserved matters application accords with the outline permission and relevant policies and guidance. It is therefore recommended the reserved matters be approved, subject to conditions and a Deed of Variation to omit the Design Code requirement.

Recommendation

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and County Planning Act 1990 so as to vary the original planning obligations as outlined in this report; and
- B. Subject to A, approve the reserved matters subject to the following condition(s):
 1. The development hereby permitted shall be carried out in accordance with drawings ref.: Fence details 2267/06/02 Rev A received by the Local Planning Authority on 25 January 2021; External Works Layout 2267/06 Rev G, Proposed Materials Layout 2267-07 Rev J, Street Sections 2267-13-Sections Rev C, Refuse Strategy Layout 2267 Rev E, House Type CAMBRIDGE - AS (Plots 11, 23) 2267/20 Rev E, House Type LEAMINGTON (Plots 14, 26) 2267/21 Rev A, House Type HARROGATE - AS Brick (Plot 22) 2267/22, House Type HARROGATE - AS (Plots 10,12,13,15,18,27,29,40,42) 2267/22 Rev C, House Type BALMORAL - AS (Plot 1) 2267/23 Rev E, House Type BLENHEIM AS (Plots 31,41,45,37) 2267/24 Rev C, House Type HIGHGROVE (Plot 5) 2267/25 Rev B, Triple Garage 2267/30 Rev B, Double Garage 2267/31 Rev B, House Type BLENHEIM - Area A - AS (Plots 3,47,48) 2267/33 Rev A, House Type CAMBRIDGE - OPP (Plots 16,25) 2267/34 Rev A, House Type HARROGATE - OPP (Plot 20) 2267/36 Rev A, House Type HARROGATE - OPP Brick (Plot 21) 2267/36, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BLENHEIM - Area A - OPP (Plots 2,50) 2267/38, House Type BLENHEIM - OPP (Plots 6,8,33,35) 2267/39, House Type BALMORAL - AS (Plots 7,17,32,36) 2267/40 Rev A, House Type BALMORAL - OPP (Plots 9,19,24,28,30,34,38,39,43,44,46) 2267/41 Rev A, Engineering Layout Sheet 1 of 1 20-001_02_01 Rev F, Surface Finishes Sheet 1 of 1 20-001_02_02 Rev E, Swept Path Analysis 20-001_02_03 Rev E, SW Catchment Plan Sheet 1 of 1 20-001_02_04 Rev E, Landscape Masterplan GL1451 01 Rev G and LEAP Proposals GL1451 02 received by the Local Planning Authority on 25 August 2021 and Proposed Site Layout 2267/03/02 Rev S received by the Local Planning Authority on 30 September 2021 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. Notwithstanding the external facing materials as shown on drawing Proposed Materials Layout 2267-07 Rev J as received by the Local Planning Authority on 25 August 2021, prior to the erection of any dwelling hereby approved, the external facing materials of hung tiles, shingles and feature stone work shall be submitted to and approved in writing by the Local Planning Authority. The details shall include material, texture, colour and where appropriate, sections. The external facing materials shall be installed in accordance with the approved details.

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

3. Prior to their incorporation in to the dwellings hereby approved, details of the colour of doors, garage doors, window frames, fascias and meter boxes shall be submitted to and approved in writing by the Local Planning Authority. The door, window frame, fascia and meter box colours shall be installed in accordance with the approved details.

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

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

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

5. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

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

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety and to protect amenity and local character.

8. Prior to the first occupation of the development hereby approved, a scheme for electric vehicle charging points including locations noted on a plan and specification of wall or stand style shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include 1 no. charging point per dwelling. Charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The electric vehicle charging points shall be provided and available for first use on a prior to first occupation of the dwelling they are associated with basis and once installed, shall be maintained in good working order.

Reason: In the interests of promoting sustainable forms of transport and in the interests of pollution control and reducing and minimising emissions from vehicles.

9. Prior to the first occupation of any dwelling on site hereby approved, the Locally Equipped Area of Play (LEAP) shall be installed as per the details shown on drawing 'Play Area Proposals LEAP GL1451 02' as received by the Local Planning Authority on 25 August 2021. Once installed, the LEAP shall be retained in perpetuity and maintained in good working order for the lifetime of the development.

Reason: In the interests of promoting on-site recreation, community interaction, play and healthy lifestyles and in the interests of the landscape and overall character of the site.

10. The Landscape and Ecological Management Plan as per condition 21 attached to the Outline permission for the site shall follow on from the details provided within the Ecological Design Strategy November 2020 by FPCR as received by the Local Planning Authority on 25 January 2021 which supports this application, with the enhancements and design initiatives shown on the plan within this document updated accordingly to reflect the latest site and landscape layout.

Reason: In the interests of biodiversity and landscape character.

11. Prior to the occupation of any dwelling hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall follow the principles of soft landscaping and species shown on drawing Landscape Masterplan GL1451 01G as received by the Local Planning Authority on 25 August 2021 but shall be enhanced to show the locations, numbers and sizes of the planting to be undertaken and the hard landscaping shall follow the principles as per the afore referenced drawing and that of drawing Surface Finishes Sheet 1 of 1 20_001_02_02 Rev E, with both updated to show the corrected placement of footpaths as per the Proposed Site Layout Plan and the locations and numbers of benches and bins to be provided. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (10 years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

12. No dwelling shall be first occupied until further details of the ventilation method proposed for plots 37, 38, 39, 40, 45, 46, 48, 49 and 50, the south western bund (including dimensions) and acoustic fence in terms of noise mitigation specification and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The ventilation, acoustic fencing and bund shall be completed in accordance with the agreed details and thereafter maintained as such.

Reason: In the interests of protecting the amenity of the area and prospective occupiers.

13. Notwithstanding the details as shown on the submitted drawings, no raised tables or ramps shall be included within the highway.

Reason: In the interests of highway safety and for the avoidance of doubt as such features are not acceptable methods of reducing vehicle speed.

14. Notwithstanding the submitted drawings, any road intended for adoption as highway maintainable at the public expense shall have a minimum carriageway width of 5m. Where a road is not intended for adoption, the extent of the highway shall be demarked and the access constructed as a dropped vehicular crossover.

Reason: In the interests of highway safety and for the avoidance of doubt.

15. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interests of highway safety to ensure suitable provision for the collection of bins.

16. No dwelling shall be first occupied until such time as its access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highway safety to ensure no loose material is carried onto the highway.

Informatives:

- a. This approval is the subject of a deed of variation to an agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.
- b. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- c. If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- d. If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk
- e. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and possibly compromise the future adoption of the new estate streets.

Ref. No. DMPA/2021/0164

Valid date: 22/02/2021

Applicant: Sarah Armstrong

Agent: Redrow Homes Limited

Proposal: **Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on Etwall Common, Land at SK 2730 1591, East of Egginton Road and North of Jacksons Lane, Etwall Common, Derby**

Ward: Etwall

Introduction

This item was deferred from the 12 October 2021 meeting to allow for a site visit. Additional text is included in italics and deleted text is indicated as strikethrough.

Reason for committee determination

This item is presented to the Committee at the request of Councillor Brown due to local concern and unusual site circumstances. The item is also a major application which has been subject to more than 4 no. letters of objection where a recommendation to approve has been made.

Site Description

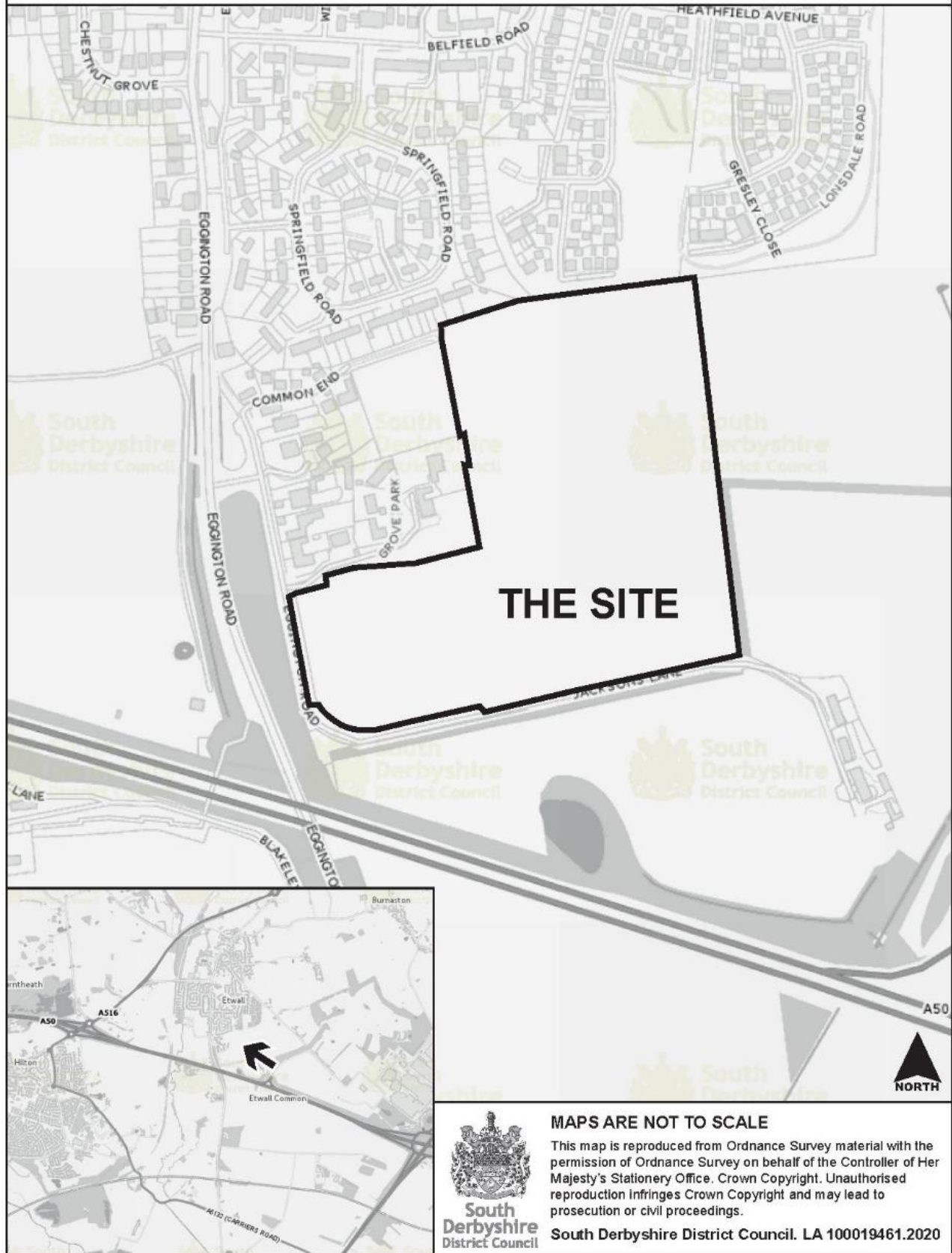
The site comprises three arable fields in an L shape formation across 8.65ha fronting Egginton Road and Jacksons Lane, Etwall. The site is generally flat with marginal changes in topography with levels falling gently from north east to south west in the most southern section of the site. The site is bound by mature hedgerows with self-seeded scattered trees within and on the field margins. Some of the trees on site are protected by Tree Preservation Orders. There is a mature tree belt south of Jacksons Lane which is also protected by a TPO then more fields and the A50 running east to west with a partial landscaped bund.

To the north west of the site are existing dwellings and allotments on Common End, Grove Park and Springfield Road, along with the Bloor Homes development to the north and north east which is accessed from Willington Road. The site is within the settlement confines of Etwall which has a range of local services and facilities, including schools, leisure centre, library, pharmacy, restaurant and post office. The site is not subject to any other statutory or non-statutory designations.

The proposal

The application seeks permission for the approval of the reserved matters of access, layout, scale, appearance and landscaping following outline permission for the residential development of up to 50 dwellings with open space, drainage and associated works. The outline permission (9/2017/1191) has been superseded by DMPA/2020/0985, a s73 application to vary condition 9 (the skylark mitigation condition) of the previous outline consent which was approved at committee. This application therefore now seeks to approve the reserved matters following the permission issued for DMPA/2020/0985. In addition, permission is sought to remove the Design Code submission from the legal agreement which sits alongside the 9/2017/1191 and DMPA/2020/0985 permissions as it has been confirmed that Redrow will be the sole developer bringing the site forward. The proposals include a mixture of 2 no. three, 34 no. four and 14 no. five bedroom houses presented in gable and hipped roof style, each with a detached garage and off-road parking. In area A, 8 houses are proposed to the corner of Egginton

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Road and Jacksons Lane; in area B, 20 houses are proposed and in area C, 22 houses are proposed. The site will be accessed from Egginton Road which will lead to 4 adoptable streets from which sections of private driveway will lead to some plots. A total of 11,500sqm of public open space is proposed across the site with numerous pathways, feature planting and seating areas planned and a 400sqm Local Equipped Area for Play (LEAP). The LEAP is proposed to include 6 pieces of equipment including: an inclusive orbit roundabout; timber team swing; joined logs; net bridge; inclined twine and orangutan timber climber also with litter bin, bench seat and various grass/rubber surfacing with gates and fencing forming the enclosure to the play area, with 3 birch trees and shrub planting proposed. The external facing materials for the dwellings are stated as Ibstock Leicester Weathered Red Stock and Ibstock Arden Olde Farm House bricks and red/slate grey Forticrete Gemini roof tiles, with some dwellings featuring Weberpral M render chalk. A variety of boundary treatments are proposed including 1.8m brick screen walls, 1.8m close boarded fencing, 1.8m close board feature fencing and 2m acoustic fencing with superficial mass of 12kg/m². Retention of existing mature hedgerows is proposed. A 15m landscaped buffer is proposed to the eastern boundary with other areas of planting proposed, off and on plot, including tree lined Street 1 and various adoptable verges. To the boundaries of the site are the surface water drainage features comprising swales, ponds and ditches with a series of flow control leading to surface water outfall areas. Footpaths are also proposed throughout the site to create a circular route through and also providing footpaths up to the northern boundary with the recently erected housing site off Willington Road, to the west towards the Common Lane allotments and south onto the corner of Jacksons Lane.

Applicant's supporting information

Design and Access Statement (DAS) – The DAS states that there are a number of listed buildings within Etwall including Grade II Sir John Port Almshouses (900m from site) and Etwall Lodge (500m from site) and the Etwall Conservation Area is 650m north of the site. The applicants consider that Etwall has good communication routes including A50 to the south, M1 16 miles to the east and Willington train station 4km to the south east. Derby is 9km north east of the site and Burton-upon-Trent is 9km south west. Toyota is 500m south east of the site. The site would be served by John Port Spencer Secondary School and Etwall and Kadampa Primary Schools. Also close to the site in Etwall and beyond are a chemist, post office, supermarket, leisure centre, library, community centre, cricket club and pubs. The DAS states there is a bus stop 50m from the site on Egginton Road connecting to Burton, Derby and Willington, with Willington station providing connections to Cardiff, Nottingham and Birmingham. East Midlands Airport is 30km to the east of the site. The DAS notes there are no public rights of way within the site or abutting its boundary, however that the National Cycle Route 54 runs adjacent to the west of the site along Egginton Road. It is stated that in the event there are archaeological remains, condition 11 on the outline approval seeks a Written Scheme of Investigation for archaeology to be submitted for approval with subsequent site investigation and recordings carried out. The DAS notes the mixed terraced and detached properties in the immediate area from 17th century to post war with predominant facing materials of brick and render with slate roofs of varying density. In respect of noise from the A50, a buffer area has been proposed to the southern area of the site which includes pathways, landscaping and site drainage between the road and the housing with a bund proposed to the south west of the site to address noise. In addition, for the southern line of housing, a continuous building line is proposed to help distribute noise alongside acoustic fencing. The DAS confirms the densities across the site to be as follows: residential development 6.9ha (50 no. units); POS 1.75ha; Character Area A no more than 4 dwellings per ha; Character Area B no more than 6 dwellings per ha and Character Area C no more than 8 dwellings per ha. The DAS explains the development is formed via the character of Arcadia drawing on picturesque approach to landscape design and layout of country housing and parkland of the 18th century with landscaping and heavy tree planting the dominant feature of the character of the site rather than the houses themselves. It is not considered that a development of 50 dwellings would cause detrimental impacts on the surrounding highway network. The developer considers that the development would create: a place that assimilates well with its surroundings; a place which makes effective use of land in line with the outline planning consent; a place with its own distinctive and recognisable character whilst respecting location; a place with lasting qualities and a place which people will enjoy living in. They consider that the design of the development has been driven by a desire to produce a high-quality residential environment which pays due regard to its local context, and affords a genuine prospect of evolving as an integral component of

Et wall in years to come.

Ecological Design Strategy November 2020 – This was prepared in line with condition 3 of the outline consent which states 'The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ef:0166_SK_02F) and the design principles of sections 5 and 7 of the Design and Access Statement (ref PRO0270 version R4). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:

(i) An ecological design strategy (EDS) addressing mitigation, compensation and enhancement which shall include the following:

- details of retained habitats and suitable protection measures;
- details of newly created habitats including ponds and swales;
- identification of green corridors; and
- locations and specifications for a range of bat and bird boxes'

As hedgerows are a priority habitat within the Lowland Derbyshire Biodiversity Action Plan due to their importance to wildlife in terms of providing habitat, habitat connectivity and resources. The existing hedgerows will be largely retained and provide the basic framework for the green infrastructure at the site. It is said that excluding H2 to the west where the access will be created, all site boundary hedgerows and their associated trees will be retained. Pedestrian access will be created through hedgerows H1, H6 and H7 to create access from the development onto Jacksons Lane, to the allotments to the west and to the north linking into existing open space, though these will be small sections of hedgerow and the removal is not considered would significantly impact the connectivity of hedgerows. It is said other hedgerows will be enhanced by boundary planting to make them more substantial to provide better ecological enhancement. Within the site at hedgerow H4 and H5 breaches it is proposed that new trees will be planted either side to create a tree lined street etc. for commuting and foraging bats. Translocation studies for hedgerow 2 as per condition 10 will be discharged at a later date. Fenced root protection areas will be used around all retained hedgerows and trees to avoid damage and soil compaction. Protective fencing will be installed to create an appropriate buffer zone, in accordance with the specifications and extents within the Pre-Development Tree Survey Report and Tree Constraints Plan by Midland Tree Surgeons. The grassland margins and hedgerows will be protected as per the great crested newt and reptile method statement by FCPR 2020. To encourage birds, mammals, reptiles and amphibians, new wildflower grassland planting will be established also within the bund to the south west of the site. All wildflower planting will be subject of a grass cutting scheme and different types. To encourage great crested newts, reeds and other planting close to SUDS features are proposed, including native fauna. Log piles, insect hotels, bat and bird boxes are also proposed in various locations across the site. Green corridors are proposed throughout the site including at the extreme boundaries to encourage growth, habitats and foraging including lighting scheme.

Drainage Strategy – This explains that the disposal of surface water from new developments is to be managed to ensure that flood risk is not increased elsewhere. This development has been designed in accordance with this requirement and the hierarchy of discharge destinations as set out in the Part H Building Regulations. It is stated that the site has benefit of an existing planning permission of which conditions 18 and 19 refer to surface water drainage strategy. It goes on to say that initial infiltration testing was completed to assess the suitability of infiltration, whilst some water level reduction has occurred, none of the boreholes had fully emptied and as such it was concluded that the site would fail BRE365 testing and as such unsuitable to infiltrate to ground. To this end, the surface water drainage strategy for the site will be for the discharge of water to adjoining watercourses. It goes on to say that the site has a network of existing ditches on field boundaries and it is proposed to split the site into three networks and provide attenuated discharges at each outfall. Discharge rates are proposed to be 2.0l/s per outfall, the minimum practicable rate. It is proposed that to ensure there is a minimal risk of pollution entering existing watercourses, prior to each outfall, there shall be an open detention basin, containing a sediment forebay and bio-retention area, as well as upstream swales to provide additional treatment and attenuation. The multiple SW outfalls are also key in maintaining water flow to existing hedge lines and to encourage biodiversity, whilst also allowing the site levels to remain close to existing ground levels. The foul water system proposed is a gravity system and a new foul sewer shall connect to the existing STW FW sewer in Old Egginton Road (MH8601).

Technical note - Drainage (October 2021) – the proposed scheme has been designed to minimise pollutant risk to watercourses and to attenuate water to mitigate flood risk. The site has been split into three surface water networks, each containing a variety of SuDS features and attenuation, prior to discharge into the existing watercourses that permeate the development. Highway swales are proposed alongside the carriageway to collect, convey and treat highway run off. Highway swales will not convey water from private areas. A second swale system in the open space and private areas will convey surface water from private areas to attenuation basins on site and this system and basins will be adopted by Severn Trent Water. Highway swales will be approximately 500mm deep with side slopes (batters) approximately 1:1.5. ensuring they cannot be overrun or used for parking. Connections from highway to the swales shall be via kerb inlets and headwalls as a continuous kerb upstand is proposed to further discourage parking. The highway swales will be vegetated with low level planting. Network 3 highway water will be discharged to sewers to be adopted by Severn Trent Water. Pollution control measures for network 3 are the attenuation basin, sediment forebay and reed beds within the basin, after which a swale conveys water to the existing watercourse. Highway swales aid the overall design, the levels for foul outfall are extremely shallow as such this approach allows for shorter/more direct foul routing to remove a number of manholes and prevent conflict with the storm water system. Also avoids the need to elevate the site to accommodate standard piped drainage which would otherwise be required because the site is extremely flat. Use of highway swales is progressive strategy which complies with SuDS manual and the NPPF.

Relevant planning history

DMOT/2021/0274 - Approval of details required by condition 9 attached to ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works)) on – approved – July 2021

DMOT/2020/1396 - Approval of details required by condition 11 attached to ref. 9/2017/1191 DMPA/2020/0985 (outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works) on – part approved – May 2021

DMPA/2020/0985 - The removal of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on – approved at planning committee – May 2021

9/2018/0003 - the side pruning of all species of trees covered by South Derbyshire District Council tree preservation order number 264 at – granted – 26th February 2018

9/2017/1191 – outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works on – approved with conditions – committee – May 2019

9/2015/0759 - erection of up to 98 dwellings with associated public open space and sustainable drainage at – withdrawn – May 2016

9/2007/0300 - The siting of one 22.5 metre high monopole, 6 antennas, 2 600mm transmission dishes, 2 equipment cabins and associated development at – approved with conditions – committee – July 2007

Responses to consultations and publicity

Original consultation period

Police Force Designing Out Crime Officer – made an observation as follows – 25th March 2021 –

- Scheme mostly accords with what we wish to see from a community safety and designing out crime perspective.
- Some aspects of boundaries and housing treatment need to be improved and should not be too problematic.
- East-west pedestrian movement through Common End is problematic as it is a private cul-de-sac with probably access rights for allotment owners squeezed with shallow frontages very close to the pathway, so from a legal and design perspective doesn't look suitable for mass circulation. At best this would affect defensible space of Common End residents, at worst be a crime generator for housing and the allotments which have existing problems with nuisance and thefts.
- S106 money allocated for public open space in the area – the allotments may be seen as a public space that could benefit from that with improvements to boundary areas.
- Opposite end of proposed peripheral footpath at north eastern corner of the site connects to a similar circular route for the Bloor site but passes through an area of new tree planting with no consideration outside of the red lined area. This needs resolution with effective links with wide opening in the existing hedge for open sight lines and also negotiation of the ditch there. It would appear existing openings would be as a result of dog walkers.
- Boundaries for the properties are mostly ok for the privacy and security of individual plots but treatment around public open spaces stops short of this and additional may lead to unwanted lines of desire developing around the backs of some plots on the western edge.
- The rear gardens of plots 5 are exposed to a wide drainage ditch and public open space, this space is enclosed by a short section of fencing close to plot 5 with the remainder as hedging. Garden boundaries are 1.2m high post and rail fence and this combination is not adequate for the security of these plots. These need securing with 1.8m high fence or otherwise.
- Plots 1, 3 and 4 have a narrow strip of presumably drainage land between the site and neighbouring housing and low height post and rail fencing is not adequate for securing gardens in this context.
- Plots 9 and 17 near the drainage ditch are unsecured and enclosed to the site of the allotments leaving potential for a desire line to develop between the potential footpath to Common End and the swale in front of plots 9-11 and plots 5-8 and plots 1, 3 and 4. These portions of land need to be secured to prevent further foot access.
- Boundary hedges to frontages of properties should be low height versions as taller growing varieties (Oleaster and Portuguese Laurel) can impede security and surveillance of the site. Are these varieties suitable and what are the maintenance arrangements or is this left to the home owners?
- The provision for the side elevation of key plots is disappointing and only the Highgrove house at plot 2 has a study window looking out over the street of any relevant plots. Additional substantial windows should be provided to enable an outlook from habitable rooms in the following instances: Blenheim – to the snug/dining area of plots 5 and 50, and to the family/lounge areas of plots 33, 41, 47 and 48; Harrogate – to the left side of plots 13, 18, 27 and 40 and to the right of plot 20 (no handling is shown on site plans although from the house access points shown this seems to be the case) and Balmoral – to the lounge of plots 4, 9, 17, 24, 34, 44 and 46.

Derbyshire County Council Planning Policy – no objection April 2021- A S106 agreement has been signed on this outline permission with contributions towards primary, secondary and post 16. As such, officers have no further comment on this reserved matters application. Highways commentary from members shall be considered by the relevant department.

Landscape Officer – no objection subject to conditions – April 2021: the plant schedule for the trees and native species hedgerow to include quantities to be planted; a plan showing the exact position of each species of tree; a plan showing all the native species hedgerows to be planted (a line drawing is acceptable); a plan of sections through the attenuation basin/ponds and swales with a slope of no more than 1:5; a detailed plan of the proposed LEAP; a plan showing the specification and position of all the proposed bird and bat boxes as the submitted documents; the submitted Fence Detail plan of boundary treatments, to show access points and their frequency for hedgehogs; a 5 year Ecological and

Landscape Maintenance Plan; enhancement of biodiversity that will mitigate for the increased development of the site and use of native species planting to this end.

DCC Archaeology Officer – No objection – conditions on the outline cover approval of archaeological work which has been approved recently and the archaeological work has not yet commenced.

Environmental Health Officer – no objection.

Derbyshire Wildlife Trust Officer – no objection – the submitted scheme should provide a welcome net gain for biodiversity in line with the objectives of the National Planning Policy Framework and policy BNE3 of the South Derbyshire Local Plan. The Proposed Site Layout Proposed Site Layout Drg No 2267/03/02 Rev E and the Landscape Masterplan GL 1451 01C broadly accord with the Illustrative Masterplan 0166_SK_02F submitted with the outline application and, as such, meet the requirements of Condition 3 of the outline permission. The proposed treatment of retained hedgerows and trees which have largely been incorporated within areas of public open space/green infrastructure as required by condition 3(b) of the outline consent are welcomed. The details provided in the Ecological Design Strategy (EDS) produced by FPCR dated November 2020 which includes details of the locations and specifications of a range of bat and bird boxes as Figure 1. This satisfies the requirement of condition 3(l) of the outline permission. Conditions should be used.

County Highways Authority Officer – object to the proposals for the following reasons – May 2021 –

- Tracking looks tight - some turning heads may need to be extended to allow for refuse vehicles.
- Site layout plan lacks dimensions for footways and carriageways so we cannot approve them at this time. Dimensions are required to avoid any need to alter the layout at Section 38 stage which would then increase the likelihood of a variation of any consent.
- Footways around the rear of swales are not a good idea as the swale banks will inevitably get parked on. Also looking at the drainage strategy, the swales would need to be adopted by the Water Authority as they take more than just highway water. We would therefore have a break in the adopted highway limits which is not acceptable.
- Streets 1 and 2 need footways around both sides to allow for pedestrian access to all dwellings without using the active carriageway.
- Check visibility from all dwelling accesses. Some critical ones on inside of bends with trees in visibility area plots 47, 5, 31 and 12
- The use of isolated raised table to suppress vehicle speeds is no longer acceptable to DCC. If speeds are anticipated to be a safety issue, the horizontal layout needs to be redesigned to remove any over long straights.
- Access to Egginton Road appears to show gates on the drawing. I assume this an existing access and they will be removed
- Culverts below carriageways will require LLFA approval and possibly structural approval depending on their size.
- Surface Water catchment plan shows private water in all the swales etc so none of these will be accepted as highway drains and the Water Authority will need to take all the drainage system except the gullies and gully connections.

The Drainage Strategy document appears to state that infiltration will fail. It seems odd that they are placing a heavy reliance on swales as opposed to a piped system discharging to the retention basins. If the Water Authority are adopting everything then it will probably not be an issue – confirmation required.

Lead Local Flood Authority Officer – made observations as follows – April 2021 – the LLFA are satisfied that the proposed layout will have capacity to safely drain surface water and will await the full surface water drainage details as required at the Discharge of Conditions application stage. The LLFA will need to see evidence showing that the ditches on site have satisfactory connectivity to a mapped ordinary watercourse off-site to ensure that the site will be able to safely drain off-site and to ensure that flood risk downstream will not be increased. The proposed culverting to ditches under proposed access roads within the proposed site layout drawings will require Ordinary Watercourse Land

Drainage Consent to be applied for to the Flood Team.

Etwall Parish Council – object to the proposals for the following reasons:

- Common End and the track adjacent to the allotment gardens is also not shown on the DCC map as an adopted highway or PROW and is owned by the adjacent houses, with the allotments leased by the Parish Council. The only permitted access along Common End being access to the houses and allotments. No permitted access to the field (development site) is available.
- If a footpath to the south-eastern corner is constructed this will lead pedestrians onto Jacksons Lane where the hedges give poor visibility, leaving a footpath short of the surfaced road and will give a short dangerous non surfaced length.
- Extra mitigation required for the noise from the Freeport.
- Is a roundabout still planned for Egginton Road?
- Will the 30mph limit be extended?
- The turning head at the junction of road 2 and 3 shown on the Engineering layout is not utilised in the vehicle tracking drawing. It would appear to be the preparation for a future road to the adjacent field rather than a turning point. This is reinforced by residents recently seeing surveyors in the field.
- If the extension of the site is under consideration, the extension will be outside the current Local Plan village boundary.
- Jacksons Lane is not shown on the DCC public map as an adopted highway or PROW. Is it permitted to provide a footpath access from the estate onto Jacksons Lane?
- The site ownership red line on drawing 2267-03-E Site Layout includes the hedge between the site and the allotments. This is not consistent with the lease dated 02 07 1943 between Etwall Parish Council and the Borough of Burton upon Trent which shows the boundary as the centreline.

22 objections were received from the public raising the following comments:

- Loss of grass verge to Egginton Road will impact landscape and general rural character of the area and from tarmacking may lead to drainage issues.
- Not clear what the junction works are for the site access onto Egginton Road and there may be access issues.
- Not clear why there is the outline of a path that exits on the eastern side of Egginton Road and why it is required. This is the same for the western side of the road opposite to no. 93 and 95 Egginton Road as there is currently no footway there and is filled with spring bulbs.
- The pathway onto Jacksons Lane on a bend needs to be reconsidered as there is nowhere for people to walk to (Broomhill Cottages are a dead end), no pavement, lighting and it is not adopted or a public right of way and could therefore be dangerous and remove sections of hedgerow.
- The pathway to Common End and allotments would not be allowed due to rights of access issues.
- The plans include sections of road that just end abruptly - is the plan for further extension to this housing development?
- Greenfield/ green belt land should not be used to provide 4/5 bedroom homes as this is not what we need to build required homes for housing crisis.
- Full flooding and drainage assessments need to be carried out again (originally done in 2016/17) as in early 2021 the top corner of Jacksons Lane flooded near to where the new estate entrance would be and no tarmac was visible. The level has not been that high for 20 years and has come from the housing off Willington Road because of the gradients. The fields have also been flooded.
- Following recent Willington Road development, dramatic change in wildlife and this will impact it more.
- Current serving roads aren't safe and with children coming to the development this would be worse when they are walking to school.
- Amenities like doctors, shops and schools haven't been catered for in this new development.

- Traffic will increase dramatically as a result of the Freeport and so will noise, as such this development should be future proofed for that.
- Speed at entrance of site to Egginton Road is 50mph and could be a traffic hazard and dangerous.
- The development would result in the erosion of Etwall as a village.

Second round of consultation August 2021:

Designing Out Crime Officer – 2nd September 2021 - made an observation as follows:

- Some of previous comments have been addressed and others have not.
- Issue of connectivity from Common End to proposed development and Bloor Homes development with no indication of how legally and practically these features will be maintained to ensure safer pedestrian movement or how they will impact neighbours amenity. These are recommended for refusal.
- There is open and inadequately enclosed land to rear/side of plots 1, 3 and 4 and 9/17 which remain unresolved from previous comments.
- Access to rear of plots 6 to 8 have been improved and there is now a selection of species for house frontage ornamental hedging.

Landscape Officer – no objection subject to conditions:

- A plant schedule, for the trees and native species hedgerows, to include quantities to be planted.
- Increase fruit trees to on plot planting to rear gardens.
- The exact position of each species of trees.
- All native species hedgerows to be planted to be shown.
- The position of all proposed bird and bat boxes.
- Any boundary treatment to show hedgehog access.
- A five year Landscape and Ecological Management Plan.
- Enhancement of biodiversity that will mitigate for increase development of the site to improve native species with local biodiversity including hedgehogs, birds, bats and bees etc.

Environmental Health Officer – recommend further details of noise mitigation measures (acoustic fence and bund) are conditioned.

County Highways Authority Officer – 1st October 2021 – no objection - the Highway Authority is not entirely happy with the design and layout of roads 1 & 2 with the swales between the footway and the carriageway. However, they note the applicant has offered assurances that the swales in the highway are designed to take highway surface water only, as such, it is not considered that there is sufficient reason for recommending refusal of the proposal on highway safety grounds. The applicant should be aware that provision of swales within the adopted highway will attract a significant committed sum and, depending on the final design/construction details of the swales and their outfalls, their inclusion may compromise the adoption of the road as public highway. Noted a number of drawings refer to the road off Road/Street 2, serving plots 37 – 40, as Street 4, on others it is Road 3. The width also varies from 4.8m to 5m. The carriageway width will need to be 5m if the road is intended for adoption. However, on some drawings it is referred to as remaining private. If the road is intended to remain private, its junction with Street 2 will need to be constructed as footway with a dropped vehicular crossover and highway limited demarked. Bin dwell areas sufficient to accommodate 2 bins per dwelling served will need to be provided on private land close to the highway for use on collection day. To address the above comments, conditions relating to no ramps/raised tables, road width (5m if intended for adoption), provision of bin collection points and surfacing of driveways should be included in any consent in the interests of highway safety. Notes relating to works within the highway, Advance Payments Code, adoption of roads and the swales are recommended.

Lead Local Flood Authority Officer – 29th September 2021 – No objection - within the proposed amended layout, there will be capacity to safely drain surface water and await the submission of the full

surface water drainage details as required at the discharge of condition stage (18 and 19). With regard to the March flooding, this can be considered when conditions 18 and 19 are dealt with.

Severn Trent Water Ltd – no objection - Foul is proposed to connect into the public sewer, which will be subject to a formal section 106 sewer connection approval. Surface water is proposed to discharge to a watercourse, which we have no comment. It is advised to discuss surface water proposals with the Lead Local Flood Authority. 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. Suggest informative regarding public sewers.

Tree Officer - no objection

Derbyshire Wildlife Trust – 28th September 2021 - comfortable with the approach proposed to secure detailed enhancement measures as part of the later discharge of conditions process.

6 objections were received from the public raising the following comments:

- a) Footpath taken onto the top of Jacksons Lane is very dangerous as it is a single track road, not adopted, used by multiple vehicle types with no pavement. Over the years with increased dog walkers etc. using it there have been near misses of highway safety incidents particularly at the bend where people cannot see vehicles coming.
- b) Footpath through to the allotments leading people down Common End is not appropriate and there is no permission to physically connect to this.
- c) The hedgerow on Jacksons Lane should not be removed as part of the works as it is established and mature, creates a good visual and sound barrier and is home to multiple wildlife.
- d) Drainage Strategy does not take into account the March 2021 flooding on Jacksons Lane and the Severn Trent comments do not reflect this either. The FRA and Drainage Strategy needs to be amended accordingly. The drainage needs to take into account the recent Willington Road development and be updated to ensure the situation is addressed and the site and surrounding area is safe from flooding.
- e) Will a 30mph limit on Egginton Road be implemented plus a roundabout to make accessing the site safe.
- f) The turning head on roads 2 and 3 do not show a vehicle tracking drawing and instead will be used as an extension road for further housing in the field as seen by surveyors in the site which is outside the village boundary.
- g) One plan shows a footpath on the western side of Egginton Road and the other does not therefore what is actually being constructed.

Etwall Parish Council – object to the proposals for the following reasons:

- The two exits of footpath in the north west corner at Common End and the south east corner of Jacksons Lane are problematic.
- The Common End aspect is a private road with access limited to the householders on Common End and the allotments, which is an unadopted road with the owner of the field subject of the application surrendering their rights of access, as such new occupiers of the development would not have a right of access over Common End. Allotment holders are concerned over loss of security if an access point is created.
- Jacksons Lane is a private, unadopted road and the footpath to be terminated at the boundary would create an unofficial access through the current hedge and is not acceptable to householders on Jacksons Lane.
- The road layout has been amended to allow for future development of the adjacent field by the addition of two cul-de-sacs. This would appear to be preliminary work to create additional housing to that permitted in the Local Plan and increase the development to the number of houses originally requested and rejected, now over a greater area which they object to by default.

In relation to the concern raised about whether the Freeport developer is aware of this application, Goodman (who are proposing East Midlands Intermodal Park to the south of the site, forming part of the East Midlands Freeport) were notified of the application and advise that they have no comments on the principles of the proposal (given that outline permission has already been granted) or the detailed architectural information submitted. They understand that the Council is considering potential noise mitigation measures and note the following in this regard:

- The October report recommendation included a condition to secure the provision of noise mitigation measures presumably to address the existing traffic noise associated with the A50.*
- Noise mitigation measures should take account of the 'Agent of Change' principle, which is that the party introducing a new land use is responsible for managing the impact of that change. This principle is referenced in both the NPPF (paragraph 187) and the National Planning Practice Guide.*
- Under the Agent of Change principle, Redrow will be responsible for mitigating existing traffic noise associated with the construction of new homes close to the A50. Goodman will be responsible for mitigating noise associated with East Midlands Intermodal Park and any resultant mitigation measures will need to be secured as part of a future application for planning consent.*

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 - S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (National Forest), INF9 (Open Space, Sport and Recreation)

Local Plan Part 2 – SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations – 23B Jacksons Lane, Etwall), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document
Affordable Housing SPD
S106 Agreements A Guide for Developers
Trees and Development
Cycling Strategy
Planning the Right Lighting
Strategic Housing Market Assessment 2021
Landscape Character of Derbyshire

The relevant national policy and guidance is:

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

Planning considerations

This application seeks to approve the reserved matters of access, layout, scale, appearance and landscaping following approval of outline permission. The principle of the development has therefore been established and hence the following assessment takes into account only the matters which are relevant to the conditions concerned. Taking this into account, along with the documents submitted (and supplemented/ and or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Impact of the development on overall housing mix and local character.
- Impact of the development on residential amenity.
- Impact of the development on highway safety.
- Impact of the development on biodiversity
- Impact of the development on trees, hedgerows and landscape character.
- Impact of the development on flood risk and drainage.
- Other matters.

Planning assessment

Impact of the development on overall housing mix and local character:

The most applicable policies to consider are S1, S2, S4, H1, H20 and BNE1 of the LP1 and H23B of the LP2, the Design SPD and the SHMA 2021. Between them these policies and guidance seek that new development involving housing provides a mixture of types, sizes and tenure over an appropriate layout and of good quality design that reflects the needs of the local population and architectural styles of the immediate locality.

The site is wholly located within the non-strategic housing allocation H23B of the LP2 called 'Jacksons Lane, Etwall'. The main body of text for the policy states 'The following sites are allocated for housing development as shown on the Policies Map and in the site specific maps under Policies 23A-N. The key considerations for each of the sites are:

- i) transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impacts on the existing road network.
- ii) impact on the surrounding landscape/and or townscape.
- iii) management of flood risk and drainage
- iv) impact on designated and non-designated heritage assets and settings.
- v) biodiversity impacts.
- vi) the design and layout to take account of site characteristics. '

The site specifics for Jacksons Lane are stated as:

- 'Around 50 dwellings.
- Footpaths to be included that offer access to the allotments, Part 1 allocation to north and onto Jacksons Lane. In area A and B the consideration of separated footways/cycleways.
- Consideration of future noise impact on the site.
- Character area A – no more than 4 dwellings per hectare (gross)
- Character area B – no more than 6 dwellings per hectare (gross)
- Character area C – no more than 8 dwellings per hectare (gross)
- A landscape buffer implemented along the eastern boundary of the site.
- No more than 3 dwellings on the frontage of site to Egginton Road.
- No buildings to be in the area directly south of Etwall Grove.
- An off-site affordable housing contribution to be made.'

Following the approval of the original outline 9/2017/1191 and the subsequent variation DMPA/2020/0985, condition 3 of both these permissions seek that the reserved matters development is brought forward in line with broad principles of the Design and Access Statement supporting the outline application and the Illustrative Masterplan and in respect of design, an internal layout in accordance with the 6C's design guide should be provided which meets the densities as set out in Policy H23B.

The proposed development comprises 50 dwellings which is therefore in compliance with Policy H23B. The density proposed mirrors that required and in Area A, four and five bedroom houses are proposed which considering the density requirements, are appropriate in this instance. The orientation of the outward facing development results to the south west corner having 1 no. dwelling fronting Egginton Road itself, with the remaining outwardly facing units orientated with their front elevations facing south west towards the corner of Egginton Road and Jacksons Lane or Jacksons Lane directly. This again is in compliance with H23B and will help create a more active frontage for the development, particularly

along its southern boundary. As seen from the Proposed Site Layout, a large area of public open space has been provided which includes tree planting, drainage ditches/swales and footpaths within Area A and retains an open area directly south of the attractive Etwall Grove, again as per Policy H23B. The footpaths and noise consideration elements in respect of Policy H23B will be considered in the coming sections of this report.

Following on from consideration of the development compliance with H23B non-strategic housing policy, also supporting the application are a Planning, Design and Access Statement, Site and Materials Layouts and House Type plans/elevations drawings. After review of the original submission, concern was raised at the provision of wide hipped roof detached dwellings to the Egginton Road frontage where the predominant character of the dwellings currently occupying the road are tall, gable roof, brick fronted villas with feature bay windows and gables with inset porches. In addition, there were issues with the overall layout and orientation of plots in respect of orientation to the road, provision of side windows to allow driveway surveillance of vehicles/cycles, relationship with public space and concerns over poor boundary treatments to properties where dwellings backed onto landscaping/drainage or the LEAP as per the Designing Out Crime Officer comments. These issues have now been resolved with new gable style house types proposed throughout Area A closest to the existing Egginton Road dwellings at a scale commensurate with neighbouring properties, with all dwellings and their garages facing the road/driveway/LEAP/ponds and drainage basins that they serve or front to allow for best passive surveillance to assist neighbourhood interaction and to assist with overall site safety. Where plots are proposed to back onto or be side facing to public open space or off-plot landscaping, suitable boundary treatments of screen walls or enhanced timber board fencing, rails with hedgerows/tree planting are proposed which help address some of the Designing Out Crime Officer comments. In addition to this, the garages serving the dwellings have been amended in style so that they have a roof type that mirrors the associated dwelling of a suitable height that ensures that the dwelling is the predominant feature of architectural focus on each plot and site wide to help support the proposed theme of Arcadia that Redrow propose.

In terms of external facing materials, the brick, render and roof tile types as shown on the Proposed Materials Layout Rev J are considered to be acceptable and mirror themes within the wider Etwall area alongside those used in the construction of the existing dwellings on Egginton Road, Jacksons Lane, Grove Park, Hollies Court and Common End. At this time, as details of the colours and specifications of doors, windows, porches, feature stone, shingle, hung tiles, gas/electric boxes, rainwater goods have not been provided, details of these will be attached by planning condition to any approval to ensure they are appropriate with regards to local character.

Impact of the development on residential amenity:

The most applicable policies to consider are SD1 and BNE1 of the LP1 and H23B of the LP2 and the Design Guide SPD. Policy SD1 states 'A. The Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. B. The Council will take into consideration the following: iii) the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker.' Policy H23B states there should be 'consideration of future noise impact on the site'.

In respect of the design related considerations regarding amenity, the dwellings within their plots are adequately spaced and orientated appropriately from one another so as not to cause overlooking, privacy loss, overbearing impacts or overshadowing both within the development itself and how it relates to existing neighbouring dwellings to the north and west. Private external amenity areas are of a size, orientation and positioning relative to the dwellings and garages within their plots so each will benefit from sufficient light and space provision.

The Officer Recommendation for 9/2017/1191 notes that the Noise Impact Assessment supporting that application states 'It has been identified that much of the development would not naturally achieve the internal noise criteria with windows open. Noise mitigation measures are recommended, including the internal layout of houses being designed to minimise the number of habitable rooms facing towards the A50; a further noise bund within the south-western corner of the site (adding to the existing 3m high

bund adjacent to the A50, which would have a beneficial effect on the wider local noise environment); the southern-most line of housing having a continuous building line or environment noise barrier constructed as a garden boundary; and use of double glazing with an alternative means of ventilation. It is noted that the predicted internal noise levels are not high in comparison with noise levels in many urban areas, and with these measures the development would achieve compliance with the noise level criteria given in BS8233 for the daytime and night-time periods'. No specific noise mitigation conditions for the lifetime of the development were attached at that time. H23B does seek a future noise impact consideration for the site with regards to the A50. The layout of the site would result in 5 dwellings (1 in area A and 4 in area B) orientated south towards the A50 with plots 45 and 46 having their rear boundaries facing that direction. This is shown to minimise the number of dwellings within the site orientated towards the A50. This area of the site and the southern most plots are already set well back from the A50, beyond the existing 3m bund and a field to the south of the site plus within the site boundaries, the drainage swales/ditches for the sites surface water scheme and Street 4/private driveway. This together with the provision of 1.8m brick screen walls (materials to match the associated dwelling) and 2m high acoustic fencing achieving a superficial mass of 12kg/m² are considered suitable to address noise in this area. To the south-western point, a bund area of POS is planned to the corner of Egginton Road and Jacksons Lane. Further details of the bund and acoustic fencing and their provision will be secured by condition. Accordingly, the proposed residents will have an acceptable standard of amenity. In relation to potential noise from the Freeport, this has not yet been approved so is not required to be taken into account when considering mitigation for the proposed residents of this site. *As noted by Goodman in their letter, the 'agent of change' principle will apply whereby those introducing the change to land use have to provide suitable mitigation for their proposed development. As the Freeport does not exist/no planning application has been made yet, it is not the responsibility of Redrow to provide noise mitigation for the Freeport.*

In terms of the amenity of existing residents, separation distances proposed between the new and existing housing comply with the requirements of the Design Guide SPD and there is considered to be no significant impact arising.

Impact of the development on highway safety:

The most applicable policies to consider are S1, S2, S6, BNE1, INF1 and INF2 of the LP1 and H23B of the LP2 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects. Within the site itself, these policies and guidance seek that suitable road networks, pedestrian, cycle and electric vehicle charging infrastructure is in place and that parking is provided at a level commensurate and to a size standard as stipulated in the Design Guide SPD.

With regard to highways considerations, condition 3 of the outline permission seeks that any reserved matters application include, so far as relevant, the following:

- '(e) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/ replacement of that guidance) and Manual for Street issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);
- (f) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- (g) if applicable, the provision of bin collection points at the adoptable highway end of private shared driveways and courtyards, sufficient in size to accommodate two bins per dwelling to which they serve;
- (h) each dwelling shall be provided with space for the parking of two vehicles for each 1, 2 and 3 bedroom dwelling or three vehicles for each 4+ bedroom dwelling, with any garages to be counted as a parking space of internal dimensions no less than 3m x 6m'.

This reserved matters also seeks approval of access, with the sole access for the development to be taken from Egginton Road. The access proposed would be dual flow, single lane and lead onto the principal 'Street 1' which sweeps through Character Area A into B, then leading off to Streets 2, 3 and 4, which themselves lead onto sections of private drives. To Streets 1, 2 and 3, there will be pedestrian

pavements either side of the vehicular road and to Street 4 partially then a crossing point to a single pavement. Private driveways will function as shared surface. In addition to this, there is a separate pedestrian pathway round most of the site to create a walking route, which is not proposed to be adopted, which will link onto Jacksons Lane to the south eastern corner, north to Willington Road and west onto Common End near the allotments. To Streets 1, 2 and 3, adoptable grass highway verges are also proposed. In terms of parking, each dwelling is proposed to have a double or triple garage for parking and in front of this, driveways set back from the associated road/street. The application is also supported by a Refuse Strategy Layout which demonstrates which plots will have roadside pick up on adoptable highway routes and where plots are on private driveways, the bin collection points closest to the adoptable highway points. Various tracking and visibility splay drawings have also been provided.

The driveways and garages proposed in relationship to the dwelling that they will serve are proposed at a ratio and dimensional standard in compliance with the relevant policies and standards, so that off-plot parking is achieved in a manner that does not cause vehicles to be the primary focus of the site and does not compromise highway safety. A condition will be attached that seeks retention of both the driveways and garages for the parking of vehicles only in the interests of sufficient on plot parking, highway safety and character, removing PD for conversion of the garages accordingly. Policy INF2 (E) states 'Parking – Development should include appropriate car parking provision having regard to:

- c) the need to encourage travel on foot, by cycle and by public transport in preference to the private car by minimising parking provision;
- f) the need to encourage the use of low emission vehicles'.

The Design Guide SPD also encourages the provision of secure cycle storage and electric vehicle charging points on a 1 no. per dwelling basis. Secure cycle storage could take place within the plot but the proposals do not demonstrate the locations of EVC points and as such these are recommended to be secured as a prior to occupation condition to encourage use of low emission vehicles. The refuse collection area strategy appears appropriate with regards to condition 3.

In respect of the road layouts and visibility, Highways have raised concern that footways around the rear of the swales beside streets 1 and 2 is not advisable as the swale banks will get parked on and that the swales will take more than just highway water. They also advise that the use of isolated raised tables to suppress vehicle speeds is no longer an accepted method and the roads should be re-designed to avoid over long straight sections if speeds are anticipated to be an issue. The applicant has confirmed the swales will only take highway run-off (no private) and that the swales are going to be designed with a maximum grade of 1:1.5 batter and as such would be a parking deterrent. In addition, they consider that the size of the proposed properties driveways and the amount of allocated parking, coupled with the low density of the scheme, mean that it is highly unlikely that residents, or their visitors, would choose, or need to, park over the swales. The applicant has designed out the need for the raised tables and has requested for this omission to be dealt with during the Section 38 process rather than amending the submitted plans. A condition preventing the use of raised tables or ramps within the development will be included to address this issue. The use of swales is not included within the Highway Design Guide and it is therefore likely the use of swales will generate a substantial commuted sum, possibly compromising the adoption of the roads as public highway. It is considered a refusal of the application based on the inclusion of swales could not be substantiated and swales are of benefit to achieving sustainable drainage and additional soft landscaping on the site. *They also avoid the need to raise the site significantly which would otherwise be required to achieve the falls necessary for a standard piped drainage system.*

Subject to the conditions outlined, it is considered the proposed development will cause no harm to highway safety.

Impact of the development on biodiversity:

The most applicable policies to consider are S1, S2, S3, BNE3 and BNE4 of the LP1 and H23B of the LP2. Between them these policies seek that planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: internationally important sites; nationally important sites (such as SSSIs); Sites of County Importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites); Ancient woodlands, veteran trees and hedgerows and priority habitats and species will need to be supported by appropriate surveys and

assessments sufficient to allow the Authority to fully understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

The outline permission was supported by ecological surveys and these informed the conditions attached to the decision notice. Condition 3 of the outline will be used to guide a detailed Landscape and Ecological Management Plan as per condition 21. Condition 3 seeks that any reserved matters application is supported by (i) an ecological design strategy (EDS) addressing mitigation, compensation and enhancement which shall include the following:

- Details of retained habitats and suitable protection measures;
- Details of newly created habitats including ponds and swales;
- Identification of green corridors; and
- Locations and specifications for a range of bat and bird boxes.'

The application is supported by an Ecological Design Strategy which sets out the principles for the LEMP to follow at a later date including locations and details of the items listed above. Whilst the EDS has not been updated to mirror the amends to the layout sought due to design/landscape revisions following the original round of consultation, the basic principles are still the same and are considered transferrable. The Derbyshire Wildlife Trust officer has reviewed the application, including the EDS, and has no objection to this approach. It is considered that the development is in compliance with policies relating to biodiversity.

Impact of the development on trees, hedgerows and landscape character:

The most applicable policies and guidance to consider are S1, S2, S3, BNE1, BNE3, BNE4, INF1, INF2, INF7 and INF9 of the LP1, H23B and BNE7 of the LP2, the Design SPD, Trees and Development SPD and Landscape Character of Derbyshire document. The reserved matters of landscape and layout have been applied for so condition 3 of the outline consent is relevant as follows: '(a) a Locally Equipped Area for Play (LEAP) and connectivity to public open space north of the site; (b) retained hedgerows and trees shall, as far as practicable, not act as enclosures to proposed dwellinghouses and be incorporated into public spaces/green infrastructure; (c) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows.'

The application is supported by a Landscape Masterplan and a Local Equipped Area for Play (LEAP) proposal. Turning first to the LEAP, as per condition 3, it has been placed to the east of the site and covers an area of 400sqm as per the requirements in the s106 relating to the outline. The LEAP will include 6 pieces of equipment comprising: inclusive orbit, timber team swing; joined logs; net bridge; inclined twine and orangutan timber climber. The equipment will be within a timber fenced area with 1m high access and maintenance gates and also proposed are a bench and bin. The surfacing for the LEAP will comprise compact gravel surfacing, reinforced grass safety surfacing and bonded rubber mulch safety surfacing. A variety of low height shrub planting is proposed to the north eastern corner and eastern boundary of the LEAP with 3 Silver Birch trees to the western side. It is considered that both the siting of the LEAP, which will be accessed off the perimeter pathway, accessed also off Street 2, and it backing onto a 15m eastern landscape buffer, overlooked by properties proposed to the west, will be suitable in terms of connectivity, passive surveillance and maintenance. Its location will ensure a 20m buffer to protect the closest neighbours amenity whilst still allowing it to be overlooked somewhat without impacting privacy. The LEAP details will be attached by planning condition.

The private on-plot external amenity areas are considered to be of an appropriate size with respect to the size of the dwelling they will serve and in comparison to average garden sizes of dwellings in the immediate locality. In respect of the wider landscaping proposals, the revised plans are much improved including more suitable low height varieties of ornamental hedge planting to the frontages of each plot, with different species for each of the character areas. This has helped to address concerns on visibility and maintenance of plot hedgerows raised by the Designing Out Crime and Highways officers in terms of height for vehicle/pedestrian safety and passive surveillance. The on-plot tree, shrub, flower and

grass planting with different species for the differing character areas are also considered acceptable. The Public Open Space (POS) meadowland grassland and around the attenuation features, plus street trees and verges are also acceptable. The landscaping plans also include references to benches and bins throughout the POS with images/specifications provided, though only the placement of the benches are indicated without numbers to be provided and no bin locations are actually shown. Following on from the planting schedule, whilst the species and sizes are appropriate, the locations and numbers of these in each location, alongside that for benches and bins needs to be further clarified and can be executed through use of planning condition. No issue is raised as to the type of Breendon gravel path proposed for the POS pathway through the site though the Landscaping Plan and Site Layout have differing layouts for these, as such this should also be rectified in the detailed landscaping plans. Whilst the public comments have raised concern about the legalities and safety of connections through portions of hedgerow to create a pathway around the site leading north to the Willington Road development, south onto Jacksons Lane (an unadopted highway) and west to the allotments and Common Lane, this is a policy requirement as per H23B and as per condition 3 of the outline. The requirement for the pathway connections was to allow the older parts of Etwall to connect to these new developments and to create better off-road pedestrian walkways for landscape character and healthier lifestyle uptake and as such, it was included in policy and brought forward in these proposals. The pathways would go up to the boundaries of the site but not through them for the time being, allowing the potential for future connections to the wider area subject to further liaison with relevant neighbouring land owners. To this end, no issue is raised and the proposals are deemed technically Local Plan compliant. The hedgerow and tree retention, replacement and limited removal (to create accesses through to each area) is in line with previous discussions following the outline permission and attached conditions, as is the POS to the south of Etwall Grove retaining views to this property. This is in line with the Landscape Officer's comments. In regard to the Landscape Officer's other comments seeking bird and bat box positions, hedgehog holes, five year Landscape and Ecological Management Plan and biodiversity enhancement, these are already covered by the various conditions attached to the outline permission seeking the submission of further detail of these elements via discharge of condition applications and as such will not be re-attached in any approval of this application. Condition 10 of the outline permission requires a scheme of tree and hedgerow protection measures to be agreed prior to development commencing. Subject to this condition and given the distance of the proposed dwellings from the protected trees, it is considered the development will cause no harm to protected trees. It is considered that the development is in compliance with the listed policies covering trees, hedgerows and landscape character.

Impact of the development on flood risk and drainage:

The most applicable policies and guidance to consider are S1, S2, S3, SD2 and SD3 of the LP1. Also relevant is condition 3 of the outline permission which seeks for any submission of a reserved matters application to include '(d) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 18 and 19 of this permission'. Conditions 18 and 19 cover the detail relating to the destination of surface water for the proposals and management and maintenance plans thereof. During consultation, the public and the Parish Council have raised concern that following the original outline permission, there has been recent flooding (March 2021) to Jacksons Lane which they believe may be connected with heavy rainfall and the recent Willington Road development to the north which has resulted in the field being saturated and Jacksons Lane in part being covered by water with no road surface visible. Supporting this application is a drainage technical note and Surface Water Catchment Plan. Severn Trent Water Ltd note that foul water is proposed to connect into the public sewer, which will be subject to a formal section 106 sewer connection approval. They have no comment in relation to surface water which is a matter for the LLFA. The LLFA advise that within the proposed layout, there will be capacity to safely drain surface water and they await the submission of the full surface water drainage details as required at the discharge of condition stage (for conditions 18 and 19). With regard to the March flooding, the LLFA advise this would need to be considered when conditions 18 and 19 are dealt with. Whilst recognising the concerns about recent flooding in the area, it is considered that an appropriate and acceptable surface water drainage scheme can be implemented at the site which will not cause increased flooding for neighbouring properties. The conditions on the outline are considered sufficient to secure an appropriate surface water drainage scheme for the development.

Other matters:

The applicants seek the removal of reference to the Design Code within the s106 legal agreement that sits alongside 9/2017/1191 and DMPA/2020/0985 approvals for outline permission. Within the definitions section of the agreement, the Design Code is defined as 'a framework to set out the access, appearance, landscaping, layout and scale parameters for the Site which shall then be binding on all subsequent owners'. The Design Code reference within the Third Schedule of the legal agreement states 'The Owners covenant with the Council as follows: 1. Not to submit any application for Reserved Matters Approval until such time as a Design Code for the Site is submitted to and approved in writing by the Council. 2. Not to submit an application for Reserved Matters Approval other than in accordance with the Design Code as approved in writing.'

The Officer Recommendation to committee for 9/2017/1191, states the following 'Consideration has also been given to whether a single or multiple developers would likely take this site forward, with the low density likely to discourage some of the usual housebuilders from showing an interest. The site would therefore likely encourage the Small to Medium Enterprises (SMEs), and even individuals wishing to construct their own home. A greater number of developers brings with it a greater range of design aspirations such that a mechanism would be required to ensure some 'unity' with the design of the wider site. A design code is therefore considered necessary if the site is sold to multiple developers, or marketed as individual serviced plots. This can be secured by way of a planning obligation, the trigger arising at the point of sale as opposed to at the reserved matters stage – the latter being an unreasonable requirement for multiple parties/individuals to create and coordinate this document.'

As the site is being brought forward as a single development by a single developer, it is considered that the Council's Design Guide SPD is sufficient to ensure that appropriate placemaking, architectural and landscape/layout design are provided in line with local guidance and policy without requiring a separate Design Code for the development to be approved prior to an approval of Reserved Matters. It is also considered that the applicants supporting documents outline their design rationale in sufficient detail, noting also reference to the Design and Access Statement compliance with the condition attached to the outline which seeks to ensure high quality and consistent design aspirations. To this end, it is considered that the requirement for the Design Code should be omitted from the legal agreement and therefore the Council also seek delegated authority to amend the legal agreement accordingly.

Conclusion:

As the development is in compliance with the listed policies and guidance, it is therefore recommended the reserved matters be approved, subject to conditions and a Deed of Variation to omit the Design Code requirement.

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

Recommendation

Approve subject to the following conditions:

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and County Planning Act 1990 so as to vary the original planning obligations as outlined in this report; and
- B. Subject to A, approve the application subject to the following condition(s):
 1. The development hereby permitted shall be carried out in accordance with drawings ref.: Fence details 2267/06/02 Rev A received by the Local Planning Authority on 25 January 2021; External Works Layout 2267/06 Rev G, Proposed Materials Layout 2267-07 Rev J, Street Sections 2267-13-Sections Rev C, Refuse Strategy Layout 2267 Rev E, House Type CAMBRIDGE - AS (Plots

11, 23) 2267/20 Rev E, House Type LEAMINGTON (Plots 14, 26) 2267/21 Rev A, House Type HARROGATE - AS Brick (Plot 22) 2267/22, House Type HARROGATE - AS (Plots 10,12,13,15,18,27,29,40,42) 2267/22 Rev C, House Type BALMORAL - AS (Plot 1) 2267/23 Rev E, House Type BLENHEIM AS (Plots 31,41,45,37) 2267/24 Rev C, House Type HIGHGROVE (Plot 5) 2267/25 Rev B, Triple Garage 2267/30 Rev B, Double Garage 2267/31 Rev B, House Type BLENHEIM - Area A - AS (Plots 3,47,48) 2267/33 Rev A, House Type CAMBRIDGE - OPP (Plots 16,25) 2267/34 Rev A, House Type HARROGATE - OPP (Plot 20) 2267/36 Rev A, House Type HARROGATE - OPP Brick (Plot 21) 2267/36, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BLENHEIM - Area A - OPP (Plots 2,50) 2267/38, House Type BLENHEIM - OPP (Plots 6,8,33,35) 2267/39, House Type BALMORAL - AS (Plots 7,17,32,36) 2267/40 Rev A, House Type BALMORAL - OPP (Plots 9,19,24,28,30,34,38,39,43,44,46) 2267/41 Rev A, Engineering Layout Sheet 1 of 1 20-001_02_01 Rev F, Surface Finishes Sheet 1 of 1 20-001_02_02 Rev E, Swept Path Analysis 20-001_02_03 Rev E, SW Catchment Plan Sheet 1 of 1 20-001_02_04 Rev E, Landscape Masterplan GL1451 01 Rev G and LEAP Proposals GL1451 02 received by the Local Planning Authority on 25 August 2021 and Proposed Site Layout 2267/03/02 Rev S received by the Local Planning Authority on 30 September 2021 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. Notwithstanding the external facing materials as shown on drawing Proposed Materials Layout 2267-07 Rev J as received by the Local Planning Authority on 25 August 2021, prior to the erection of any dwelling hereby approved, the external facing materials of hung tiles, shingles and feature stone work shall be submitted to and approved in writing by the Local Planning Authority. The details shall include material, texture, colour and where appropriate, sections. The external facing materials shall be installed in accordance with the approved details.

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

3. Prior to their incorporation in to the dwellings hereby approved, details of the colour of doors, garage doors, window frames, fascias and meter boxes shall be submitted to and approved in writing by the Local Planning Authority. The door, window frame, fascia and meter box colours shall be installed in accordance with the approved details.

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

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

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

5. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

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

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior

grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety and to protect amenity and local character.

8. Prior to the first occupation of the development hereby approved, a scheme for electric vehicle charging points including locations noted on a plan and specification of wall or stand style shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include 1 no. charging point per dwelling. Charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The electric vehicle charging points shall be provided and available for first use on a prior to first occupation of the dwelling they are associated with basis and once installed, shall be maintained in good working order.

Reason: In the interests of promoting sustainable forms of transport and in the interests of pollution control and reducing and minimising emissions from vehicles.

9. Prior to the first occupation of any dwelling on site hereby approved, the Locally Equipped Area of Play (LEAP) shall be installed as per the details shown on drawing 'Play Area Proposals LEAP GL1451 02' as received by the Local Planning Authority on 25 August 2021. Once installed, the LEAP shall be retained in perpetuity and maintained in good working order for the lifetime of the development.

Reason: In the interests of promoting on-site recreation, community interaction, play and healthy lifestyles and in the interests of the landscape and overall character of the site.

10. The Landscape and Ecological Management Plan as per condition 21 attached to the Outline permission for the site shall follow on from the details provided within the Ecological Design Strategy November 2020 by FPCR as received by the Local Planning Authority on 25 January 2021 which supports this application, with the enhancements and design initiatives shown on the plan within this document updated accordingly to reflect the latest site and landscape layout.

Reason: In the interests of biodiversity and landscape character.

11. Prior to the occupation of any dwelling hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall follow the principles of soft landscaping and species shown on drawing Landscape Masterplan GL1451 01G as received by the Local Planning Authority on 25 August 2021 but shall be enhanced to show the locations, numbers and sizes of the planting to be undertaken and the hard landscaping shall follow the principles as per the afore referenced drawing and that of drawing Surface Finishes Sheet 1 of 1 20_001_02_02 Rev E, with both updated to show the corrected placement of footpaths as per the Proposed Site Layout Plan and the locations and numbers of benches and bins to be provided. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (10 years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

12. No dwelling shall be first occupied until further details of the south western bund (including dimensions) and acoustic fence in terms of noise mitigation specification and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The

acoustic fencing and bund shall be completed in accordance with the agreed details and thereafter maintained as such.

Reason: In the interests of protecting the amenity of the area and prospective occupiers.

13. Notwithstanding the details as shown on the submitted drawings, no raised tables or ramps shall be included within the highway.

Reason: In the interests of highway safety and for the avoidance of doubt as such features are not acceptable methods of reducing vehicle speed.

14. Notwithstanding the submitted drawings, any road intended for adoption as highway maintainable at the public expense shall have a minimum carriageway width of 5m. Where a road is not intended for adoption, the extent of the highway shall be demarked and the access constructed as a dropped vehicular crossover.

Reason: In the interests of highway safety and for the avoidance of doubt.

15. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interests of highway safety to ensure suitable provision for the collection of bins.

16. No dwelling shall be first occupied until such time as its access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highway safety to ensure no loose material is carried onto the highway.

Informatives:

~~This approval is the subject of an agreement under Section 106 of the Town and Country Planning Act 1990.~~

- a. *This approval is the subject of a deed of variation to an agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.*
- b. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- c. If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

- d. If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk
- e. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and possibly compromise the future adoption of the new estate streets.

Item No. 1.2

Ref. No. [DMPA/2021/0315](#)

Valid date: 25/03/2021

Applicant: Liam Kelly **Agent:** Wardell Armstrong LLP

Proposal: The installation of up to 10MWp of solar photovoltaic panels and associated works, including substations, inverters, access tracks, security fencing and cameras at Land at SK1930 5342, Hawthorn Farm, Scropton Road, Scropton, DE65 5PR

Ward: Hilton

Reason for committee determination

The item was deferred from 17th August 2021 committee.

Executive Summary

Members will recall that the application was deferred in order to give the applicant the opportunity to address outstanding concerns expressed by members of the Planning Committee in relation to the following matters:

1. The impact of noise resulting from the development on neighbouring residential properties;
2. Drainage and flood risk taking account of recent local flood events;
3. The impact of solar glare on neighbouring residential properties;
4. The impact of the development on views on heritage assets; and
5. How the impacts during construction will be managed.

The applicant has submitted additional information in support of their application to try and address the concerns expressed at Planning Committee, and these are discussed below.

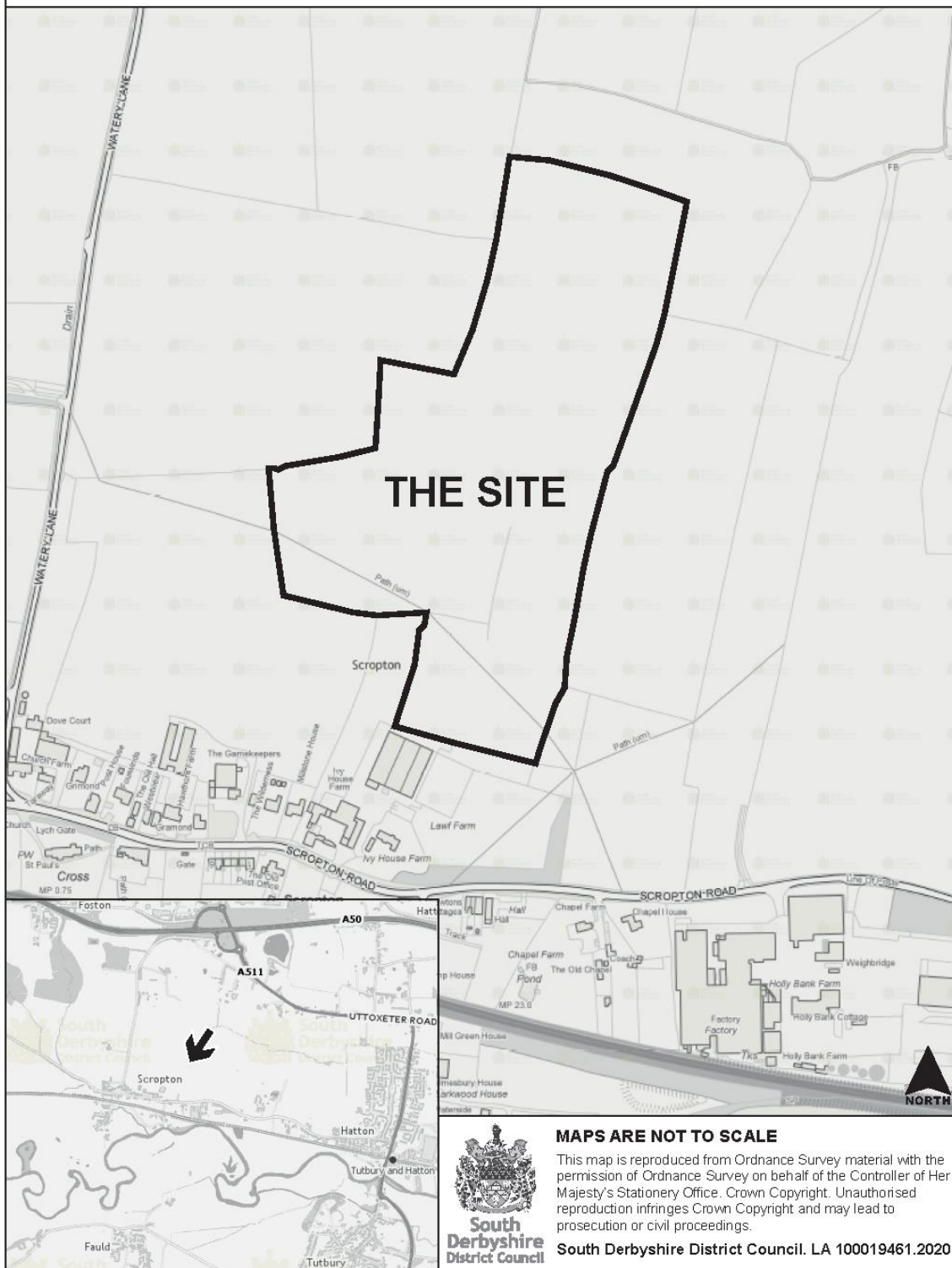
The additional information sets out the noise levels resulting from the development and confirms no significant impact on residents. Further clarification relative to flooding, flood risk and surface water drainage is provided, and this demonstrates that the proposed development will provide betterment in terms of surface water flows. The impact on listed buildings is examined and whilst the report does not identify any harm, some “less than substantial harm” is identified but the benefits of the scheme outweigh that low level harm. Further information has also been provided to show how the impacts of the construction can be mitigated.

It is concluded that the proposed development is still considered to be acceptable and is recommended for approval.

Details of the Application

The proposed development is to install up to 10MWp of solar photovoltaic panels and associated works, including substations, inverters, access tracks, security fencing and cameras. The proposals shall comprise primarily of solar panel modules which convert sunlight directly into electricity. The proposals include:

DMPA/2021/0315 - Land at SK1930 5342, Hawthorn Farm, Scropton Road, Scropton, Derby DE65 5PR



- Installation of PV panels, approximately 0.8m off the ground; with a maximum height of approximately 2.63m from ground level at a tilt angle of 15 degrees. Panels would have matt dark blue appearance and would not be reflective.
- Panels to be installed in arrays of 3 panels;
- Construction of ancillary works include access tracks;
- Temporary construction compound;
- Pole mounted CCTV cameras positioned around the perimeter fencing;
- 2m high fencing during construction period becoming 2.4m high fencing when operational;
- 4no. transformer substations (3no. 20ft and 1no. 40ft);
- A customer cabin;
- A Distribution network Operator (DNO) substation; and
- 27no. inverters (installed beneath the solar panels)

It is proposed an array of approximately 14,118 freestanding solar panels generating a maximum output of 10MWp electricity will feed directly into the Local Electricity Distribution network. The solar park is proposed to be an unmanned facility with underground cabling feeding into the control building from across the site and will be housed within the cavities of the buildings foundations. The inverters will change the power generated from the solar panels into DC power that can be used by the wider utility (WPD). Each inverter will be connected to a few dozen solar panel modules which would limit the single point of failure in the event issues are experienced. Inverters are proposed to be connected to one of 4no. transformers located within the site fencing which will be built to the standard specification of WPD to meet their requirements. It is proposed that the solar panels will be constructed from toughened glass set in an aluminium frame. Beneath the glass is a non-reflective layer, electrical connections, silicon and a backing layer. This will minimise reflective glint and glare from the panels. It is proposed that the panels will be arranged in an east to west alignment facing south to maximise sunlight exposure. The panels themselves will be mounted on frames with a front height of approximately 0.8m and a maximum back panel height of approximately 2.63m creating a tilt angle of approximately 15 degrees. The proposed site area is approximately 9.62ha, however the equipment will be within the fenced area of approximately 8.15ha. It is proposed that the panels will be set back from the perimeter fencing to prevent overshadowing from adjoining vegetation and to provide a wildlife buffer. It is proposed that there will be a separation of approximately 2.3m between each row to ensure that panels are not overshadowed. The piles supporting the panels were mounted into the ground so minimal excavation is necessary. It is proposed perimeter fencing will be erected to restrict access to the site comprising of 2.4m high deer or similar fencing, which will be selected to minimise the visual impacts in keeping with the site location. The proposed access to the site will be made from Scropton Road with the entrance strip to the site from an existing track off Scropton Road which runs for 75m. During construction a purpose-built track would run to the site itself then entering a south western corner of the west field, likely to be crushed gravel to prevent flooding. A temporary construction track is proposed on part of PROW 11. It is considered that the construction of the scheme will take approximately 3 to 4 months. The proposed lifespan of the development is 30 years. Following the operational life of the development the site is proposed to be decommissioned which will involve the removal of all the materials and equipment that have been on site during the operational phase, which is anticipated to take 1-2 months and after which the site will be restored to its former condition of arable land, a contract that the applicants have entered into with the landowners. It is also proposed that detailed information boards will be placed along perimeter fencing of the PROW's to provide details of the scheme and information on biodiversity for the purposes of education.

Relevant Policies and Guidance

The relevant policies have previously been set out in the original committee report, attached as an appendix.

Further consultation responses

A further 21 day public consultation was undertaken on the additional information and as a result three further letters of objection and four letters of support have been received.

The letter of objection can be summarised by the following points:

- a) 3 weeks to provide comments is not enough approaching Christmas.
- b) It will industrialise the centre of the small village.
- c) It will remove good quality arable land and we should be enhancing our food security in these times.
- d) It will aggravate flooding in Scropton.
- e) It may introduce criminality – has anyone checked theft levels of the other two solar farms nearby? 26 CCTV cameras on 3m poles in a rural residential location is an abomination.
- f) I suggest that this sequential test was conducted with preset parameters of location for financial purposes.
- g) This area is within flood zone 3 and as such should be totally excluded from such development and the applicants should look outside the whole area for a suitable location. Other areas would not be in a flood zone 3 area nor on good quality agricultural land which has been producing food crops for many years.
- h) There are no benefits to Scropton's community for it to pass the Exceptions Test in flooding terms.
- i) I note that the Water Infiltration tests done on 13th October were not completed due to insufficient time and the results were extrapolated and estimated. Comments were made that results may also be different in the winter months.
- j) Is this acceptable in respect of such a major development that will affect our small rural village for many years?
- k) Who will be responsible for the precautionary linear swales and water surface soakaway testing and will ensure that it is undertaken?
- l) Government guidelines are still as stated by Lord Pickles in 2015 *"Any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence."*
- m) Is Prime Minister Boris Johnson's overhaul of planning regulations underway?
- n) There has to be a balance between the installation of renewable energy and the need for the country to become more self-sufficient in food production.
- o) The Campaign to Protect Rural England believes, as I have said for many years, that the most suitable location for solar farms is on existing industrial sites, including roofs and, my own personal addition, would be installation of solar panels to the roofs of all new builds as part of planning regulations.
- p) Two of the drawings are of other sites.
- q) I note that the large substations, customer cabin and DNO cabin (6 buildings) associated with the site are still located at the closest boundary to residential houses. Noise levels from these large buildings will therefore be at the highest level where they will be most likely to be heard. Has any discussion taken place about moving them further along the access track away from the residential properties?
- r) Planning guidance indicates that the appearance and size of new buildings and a loss of privacy to surrounding properties will be taken into account when assessing an application. I think that 6 large noisy buildings in close proximity to residential properties should surely cause concern.
- s) Proximity to connection points is not a good reason locationally.
- t) There is a small-bore pipe not shown which discharges south-east.
- u) Surface water runoff from the solar farm development site will contribute to the flooding south-south east of the development site onto Scropton Road – it is this road that is the main concern from flooding. Scropton Road has flooded several times – and on three occasions there was no way in or out of the village.
- v) The loss of impermeable ground will lead to excess runoff and the swales proposed will be grossly inadequate.
- w) There is a depression which will restrict water flows.
- x) The parish hall is only 150m away.
- y) The trillions of plant roots under the panels will not grow and the land will not absorb water.
- z) The 14,118 panel piles, 5 substations and 1 customer cabin on concrete, and 26 CCTV poles on concrete bases, all on 23.7 acres are not small footprints.
- aa) The surface water will affect the livelihoods of neighbours.

- bb) The case officer advised the applicant to clear ditches before the next meeting of Planning Committee.
- cc) The applicants have had Planning's guidance and ongoing assistance throughout the planning process, plus an infinite time period in which to respond to the Planning Committee's concerns/queries and yet the rest of the public you represent in Scropton are seemingly treated with disregard and given little consideration.
- dd) The swales will be permanently full of water.
- ee) There are concerns of people paving gardens for parking so you should have concerns about the development.
- ff) An example of flooding which has occurred since the installation of a solar farm is at Aston House Solar Farm, Leathersley Lane, Sudbury.
- gg) Derbyshire County Council identify that *'Any alteration to the existing impermeable surface area of the development site may exacerbate surface water flood risk, so the introduction of new impermeable surface should be limited where possible.'*
- hh) The applicants unfounded reasoning for the points of connection being located where it is has no validity as the 11KV line onto which the connection will be made, runs east west and could be utilised from a number of sites located away from residential properties.
- ii) The FRA seems to only refer to when the river bursts its banks, not local flooding.
- jj) Reference to Watery Lane flooding is irrelevant.
- kk) The flooding events referenced contain superficial padding and I enclose a photo of a road closed sign from the Burton Mail outside Hawthorn Farm.
- ll) Flooding in Hatton is not relevant.
- mm) Clearing blocked gullies will not reduce the likelihood of flooding.
- nn) Watery Lane is not the flooding issue, Scropton Road is.
- oo) Earlier in 2021 the fields adjacent to the site were lying in water and those on the site were heavily waterlogged. The water therefore had to go somewhere and its obvious it is southwards.
- pp) The parish hall will be affected the water runoff.
- qq) The water from the sump pumps will still need to go somewhere.
- rr) The water table is known to be 800mm-900mm below ground.
- ss) The infiltration tests do not state the condition of the ground when undertaken, it will not drain if saturated.
- tt) Software modelling of is not always reliable – the Environment Agency maps show large areas flood, whereas some never do.
- uu) Flooding that occurs between Chapel Lane and Avara is also due to water coming off the proposed development land and neighbouring land to the east. The proposed development on the site is likely to exacerbate flooding of all the land to the east and the land and road to the south. Therefore, water could flood houses in Chapel Lane as the water has nowhere to go.
- vv) There are concerns the drainage will not be maintained.
- ww) Some of the references in the reports and plans are not for this site, undermining their integrity.
- xx) The Heritage Statement has views of the church from the footpaths which forms an important part of walkers' enjoyment will be impeded by the height of the solar panels and related structures.
- yy) In terms of glare, 100% absorption is not achieved and some level of solar reflection will always occur and the concern is generally that reflections will cause a discomfort or a nuisance.
- zz) The small reflection from a panel will be multiplied by 12,118 panels.
- aaa) The nearest house is 95m away and the hedge will not screen them.
- bbb) The conclusion that the panel glare will not affect residents is glib and not scientifically based.
- ccc) The Noise Report uses the following vague terms relating to key components of the solar farm and their significant impact on noise levels.
- ddd) The Noise Report does not look at the cumulative impact.
- eee) Noise whilst low will take place 24 hours a day. The noise coming from this development site could impact people's mental health as it will be a continual, audible intrusion into their lives.

- fff) The figures quoted are not accurate figures and even at a low level are enough to be heard and cause audible intrusion into people's lives, e.g. neighbours during the summer wishing to have their bedroom windows open, their sleep will be impacted by the audible intrusion.
- ggg) Planning should consider the long-term health effects associated with this solar development, namely continuous background noise (white noise), which will come from the solar farm equipment, which can harm the brain by overstimulating the auditory cortex – the part of the brain that helps us perceive sound. The effects of sound doesn't stop with the ears. Nonauditory effects of noise exposure are those effects that don't cause hearing loss but still can be measured, such as elevated blood pressure, loss of sleep, increased heart rate, cardiovascular constriction, laboured breathing, and changes in brain chemistry.
- hhh) Noise levels appear to be primarily based on assumptions, which is a huge gamble.
- iii) The NPPF states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, whether existing or future". This statement alone should lead to Planning rejecting this application.
- jjj) The development will create cumulative landscape and visual impact by 'severely adversely' affecting the area. Views from numerous footpaths near the site will be substantially adverse during and after development, including the invasive CCTV cameras on a public footpath.
- kkk) The District Council's own Corporate Plan states that "In a period when concern for the environment is more prominent than ever, a careful eye is being kept on protecting the environment."
- lll) The Peak and Northern Footpath Society study of the application contains phrases such as "the effect on users of the footpaths would be substantially adverse", "for the people who use these paths, the development would be disastrous", and "the developers would make the public walk along fenced corridors".
- mmm) Were the Council to approve this application, questions would surely arise as to why it was totally ignoring clear, unambiguous, government guidelines and also apparently be flying in the face of its own declared objectives.
- nnn) Amber Valley Borough Council's Planning Board 'refused' an application for a large solar farm saying it was simply too large, in the wrong place, preferring solar panels to be placed on industrial buildings and on brownfield land.

The four letters of support can be summarised by the following points:

- a) Full support should be given to this, especially after COP26.
- b) We fully support the plans to help make South Derbyshire a better, greener place to live.
- c) I support this as it will help the local food factory reach the government net zero pledge.
- d) It will better the flooding problems in Scropton.
- e) It is a great scheme which will help combat climate change by reducing carbon emissions.

Assessment

Noise

Further information in the form a Noise Screening Assessment has been produced and that assessment states that the proposed solar farm is located at least 100m from the nearest noise sensitive receptors. The proposed development will not operate during the sensitive night-time hours for the majority of the year as no electricity is produced and no noise is emitted when the sun has set. The solar panels themselves do not produce noise, but the proposed development includes some ancillary equipment which would produce noise, these are:

- Small inverters for each solar panel, which include intelligent cooling fans, which only operate when required, i.e. during sufficiently high load, and high ambient temperature.
- An electrical substation located approximately 250m from the nearest noise sensitive receptor, housed within a shipping container.

The Noise Screening Assessment assumes the small inverters produce 55db(A) which would measure 15db(A) at the nearest receptor, and that electrical substations produces 82db(A) which would measure 26db(A) at the nearest receptor which does not take account of the fact that the proposed substation would also be sited within a shipping container which would reduce noise.

The report concludes that given the likely noise emissions, and distance to the receptors, noise from the proposed development is very unlikely to adversely affect any residential receptor and will be below Lowest Observed Adverse Effect Level (LOAEL) when considered in accordance with Planning Practice Guidance – Noise 2019.

The Council's Environmental Health Officer was reconsulted on the additional information submitted by the applicant but has confirmed that they have no further comments to make on the application. It is also noted that the levels referred to in the Noise Screening Assessment fall significantly below the noise threshold specified in condition 18 of the main report which requires the noise levels from inverters, fixed plant and machinery forming part of the development not exceed 47 dB(A) at 10 metres from the site boundaries.

In light of the above, it is considered that, notwithstanding the comments received, the proposed development would not generate undue impact on the amenity that occupiers of nearby residential properties could reasonably expect to enjoy, in terms of noise of the impact of the physical structures.

Drainage and flood risk

Further information in the form of a Flood Risk Assessment Addendum has been submitted by the applicant. The report states that the solar panel piles and concrete slabs used beneath structures will give a minimal increase in impermeable area and a negligible increase in the rate and volume of surface water runoff generated from the proposed development during storm events. Swales would be installed across the site area to intercept and retain both the additional runoff and a portion of the existing runoff from the agricultural land. The new tracks are semi-permeable although for the calculations in terms of surface water runoff they have been assumed to be impermeable. The report demonstrates that the development would provide betterment to the existing scenario as runoff generally flows off site unrestricted. Trial pits were dug for groundwater water infiltration testing and the returned reasonably favourable results and the soil permeability at the site is better than expected. As such the drainage strategy is appropriate for the site and development.

The Flood Risk Assessment Addendum has examined available resources by way of local media, Parish Council information and the Environment Agency. The majority of issues identified in the report occurred in the vicinity of Watery Lane and Leathersley Lane. It states that there was no evidence that any flooding caused by such problems impacted upon the site area, approximately 250m to the east and that as ground levels in the majority of the site fall eastwards away from this area, the report considers that any runoff from the site did not contribute to any subsequent flooding occurring as a result of these issues. It states that The Parish Hall is located over 1km to the east of the site, and that runoff from the site would not enter the highway drainage network in that area. Flooding occurring as a result of the blocked highway drainage outfall would, therefore, not be caused in part by surface water runoff from the site. Due to the distance of the site from this area, there would be no risk that any flooding would extend into the site. The proposed development will, therefore, have no impact on any future flooding in this area and the site itself would be unaffected by any such flooding.

The Flood Risk Assessment Addendum submitted by the applicant sets out the search area in terms of the Sequential Test setting out the requirements for the development. The Distribution Network Operator (DNO) suggested a point of connection approximately 500m east of Scropton and as a result a search area of 2.5km from the point of connection was chosen and any distance beyond this is likely to render the development unviable. It also takes account of the need to provide a private wire connection to Avara Foods, therefore the closer the site is to Avara Foods and the PoC, the more feasible the site will be financially. The River Dove and Crewe to Derby railway line render sites to the south difficult and less financially feasible to develop and large areas of the search area are also in flood zone 3. The Flood Risk Assessment Addendum states that roads, rail and buildings have had standoffs applied to them, and whilst the standoffs are not particularly large, given the number of roads and buildings within the search areas, it reduces the available space for the proposed development. A further factor is the availability of alternative sites and landowner permission, which has been secured for this development. Solar farms are not specifically listed in the developments listed within the Sequential Test categories but by their nature are considered to be "Less vulnerable" forms of

development. On this basis, it would not be necessary to apply the Exception Test. However, even if it were argued that the development needs to pass the Exception Test, the development is considered to provide wider sustainability benefits that outweigh the flood risk, and it will be safe in terms of its users. The Exception Test states that it should be demonstrated that the development would not increase flood risk elsewhere, and, where possible, will reduce flood risk overall. As stated above, the Flood Risk Assessment Addendum has demonstrated that there would be betterment by way of reduced offsite surface water flows as a result of the development.

On this basis it is considered that the applicant has demonstrated that there are no reasonably available sites outside flood zone 3 for this development and as such the Sequential test is passed and that whilst it is considered that it is not necessary to apply the Exception Test, in this instance it has been demonstrated that if it were applied, then the Exception Test would be passed.

It is noted that whilst the Environment Agency were reconsulted on the additional information, they have advised that they have no further comments to make in addition to those they made previously and which have been taken into account in the main report. It is noted that condition 28 requires further detailed designs and associated management and maintenance plans of surface water drainage to be submitted, that condition 29 requires the submission of a further assessment to demonstrate that the surface water drainage hierarchy accords with the Planning Practice Guidance; and condition 31 requires a qualified drainage engineer to verify the surface water drainage measures that are provided accord with the approved details. As a result, it is considered that, notwithstanding the comments received, the development is acceptable in terms of flood risk and surface water drainage.

Solar glare

The applicant has produced a "Technical Note: Review of Solar Glint and Glare Impacts From PV Solar Panels" in order to examine these issues. It states that in the northern hemisphere, for south facing solar farms in general, glint has the potential to occur on land towards the west and south west of the solar farm in the early morning and towards the east and south east of the solar farm in the early evening. Glint will only usually occur in the morning or evening for fixed receptors. With this in mind, the report states that much of Scropton to the south of the site, will not experience glint from the proposed panels. It also states that any residential properties within the area to the west and south west, and east and south east, are sufficiently distant and lie beyond hedgerows or buildings, such that they will not be impacted by the proposed panels. It states that glint can only occur when direct sunlight can reach the panels so diffused lighting caused by weather conditions such as cloud, fog, and mist, cannot cause glint due to the low energy intensity of the light incident on the panels. It also advises that solar PV panels are designed to absorb light and convert this to electricity and are not designed to reflect sunlight, although there is a small reflective component for modern solar panels, and that the glass which coats solar panels is specifically designed with a low iron content to aid the absorption of daylight and thus has a much lower level of reflectivity than the glass typically seen in conventional windows. The report states that less than 9% of the total incident visible light is reflected, while normal glass reflects approximately 19% and that solar panels have a comparable reflectivity to that of calm water. The report concludes that occupiers of residential properties will not experience any significant impacts in terms of glint and glare resulting from the development. This conclusion is considered to be reasonable and as such it is considered that there would be no undue adverse impacts on the amenity of the occupiers of neighbouring residential properties to reasonably justify refusal of the application.

Impact on heritage assets

The applicant has submitted a Heritage Statement to examine the impact of the proposed development on The Church of St Paul and The Old Hall, both grade II listed buildings. In terms of the setting of The Church of St Paul, the report states that the churchyard is its principal setting element which most expressively adds to an understanding of its significance, with strongly defined enclosure provided by the stone wall to its perimeter and mature evergreen treelines to the north and south. These are said to screen outward and inward views of the church with only the bell tower being visible on approach, the bell tower being appreciable from a number of points within and around the village dependent on the presence/absence of intervening buildings and vegetation. The report states that long views are possible from public footpaths to the north of the village albeit these are screened by the presence of

buildings within the village and the treeline to the north of the church, meaning only the upper stage and pyramid roof of the bell tower are visible.

In terms of assessing the impact of the development on The Church of St Paul, the report states that the resultant changes would cause no harm to its significance as they would not directly impact the fabric of the church; they would not be visible from the publicly accessible interior of the church nor within the churchyard; they would not be visible on the immediate access to the church; and whilst views of the bell tower on the wider approach from the north would be possible from public footpaths within the site, the proposed site layout would conserve a view possible from the southern part of the application site where the public rights of way intersect other views of the bell tower from public rights of way to the west of the site would be unaffected. It states that any views are not regarded as important views and are not the only views of the bell tower on the footpath approach.

In terms of the setting of The Old Hall, the report states that the earlier church and the associated settlement activity which it would have attracted were likely a key placemaking factor in the location of The Old Hall in the seventeenth century. The continuance of function provided by the later church is a positive setting element, the cottage benefiting from an understanding of its central location adjacent to a religious anchor which would have attracted settlement at the early part of the post medieval period. As such, the report concludes that the historic setting of The Old Hall relates its location next to the existing church and its predecessor.

In terms of assessing the impact of the development on The Old Hall, the report states that the resultant changes would cause no harm to its significance as they would not directly impact the fabric of the building; the proposals would not be visible from the interior of the building; and they would not intervene in any important views of the building from Leathersley Lane. As such the report concludes that the historic setting of The Old Hall relates to its location next to the existing church and its predecessor.

The report concludes that listed buildings would be unaffected by the proposals such that the assets and their settings would be conserved, but should any stakeholder disagree, the public benefits to take account into the planning balance have been identified, namely the renewable energy credentials of the scheme.

Having studied the submitted report, it is noted that there is a group of listed structures associated with the church (the church itself, the lychgate at the main churchyard entrance, and a churchyard cross to the south of the church) all of which are grade II listed. However, it is considered that there would be no direct harm to the fabric of buildings, and no harm to significance on an immediate local scale, including the relationship of the church to streetscene and other nearby listed buildings. However, there would be some very minor adverse impact in restricting views within the wider landscape, but this impact would be very minor, and the vast majority of wider views would be entirely unaffected and no particular view from any specific position is an intentional, or designed view of the church. Notwithstanding the submitted report, in light of the very minor adverse impact on the setting of the church which would be 'less than substantial' harm as defined in the current National Planning Policy Framework (NPPF), great weight must be afforded to the conservation of designated heritage assets. This harm engages a presumption against granting planning permission via section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, Paragraph 202 of the NPPF requires the 'less than substantial' harm to the listed building to be weighed against the public benefits directly arising from the development and this is a material consideration for the decision maker. In this case, the significant public benefits towards reducing carbon emissions and tackling climate change that the development would bring, whilst also taking into account the limited lifespan of the development (a requirement of condition 13 set out in the main report limits the development to 30 years), are considered to significantly outweigh the very minor harm to the heritage asset, which would be at the very bottom end of the scale of 'less than substantial harm'.

Construction management

The applicant has submitted a Technical report for Construction Management to support the application. It states that a 3-4 month construction period is needed plus 1 month in advance of that to

procure and deliver materials to site. Whilst ideal to undertake works between April and September when soils are typically dry, the British weather means heavy rain can fall year-round and with mitigation work during wet conditions, can take place throughout the year. The report states that mitigation measures will be based on such guidance as Defra's 'Construction Code of Practice' and MAFF's 'Good Practice Guide for Handling Soils', and include:

- Avoiding or limiting soil handling after periods of heavy rainfall or during periods when soils are waterlogged to minimise compaction and damage to soil structure;
- Limiting the number of plant/machine movements within defined areas in order to minimise compaction and damage to soil structure;
- Establishment of vegetative cover as soon as possible in order to maintain soil structure and prevent soil loss through erosion; and
- Reducing the potential for soil compaction via the use of Low Ground Pressure (LGP) tracked or wheeled tyres in order to spread the weight of vehicles, limiting the height of soil stockpile mounds, restricting construction traffic to demarcated working areas and loosening the area afterwards using recognised practices and equipment to remove any compaction;

Other measures include:

- Ground protective boarding to spread the weight of vehicles (this will not prevent soil compaction but may make machine movement easier);
- Limiting the weight of vehicles that are allowed onto site or certain areas or site;
- Limiting the number of vehicles that move around on site to a minimum;
- Restrict vehicle movement to designated pre-defined tracks with ground protection;
- Use only low ground pressure and tracked vehicles;
- No working on areas with standing water or that are waterlogged;
- If there is likely to be overground flows of water which will move soil and sediment, sediment traps may be required to protect watercourses and reduce pollution; and
- Limit working days to 'dry days' and days where rainfall has not caused ground waterlogging in the previous 24 hrs.

Whilst it anticipated that, due to the time of year, dust is unlikely to be a significant problem, nevertheless the report sets out dust mitigation measures to include:

- Solid screens or barriers will be erected around operations where there is a high potential for dust production, and will be kept clean;
- Materials that have the potential to produce dust will be removed from site as soon as practically possible;
- All cutting, grinding and sawing equipment will be used in conjunction with suitable dust suppression techniques such as water sprays. An adequate water supply will be available on site for dust suppression purposes;
- Drop heights from loading shovels and other material handling equipment will be minimised in order to reduce the potential for emissions of dust and fine particulate matter;
- Wheel washing facilities will be provided for all vehicles accessing the site; and
- Vehicles entering and leaving the site will be covered to prevent the escape of materials

It is considered that the additional information submitted demonstrates that the development can be constructed without significant adverse impacts. It is also noted that conditions are recommended in the main report relating to the measures to avoid adverse impacts during the construction of the development. The recommendation set out in the submitted Dust Action Plan (condition 3); site compound for the storage of plant and materials, site accommodation, parking and manoeuvring of site operatives' and visitors' vehicles to accord with the submitted plan (condition 5); construction hours (condition 6); wheel wash facilities in accordance with submitted details (condition 7); a Construction Traffic Management Plan, site access, routing and remedial works program to be submitted (condition 9); and details to be submitted to demonstrate how additional surface water run-off from the site will be

avoided during the construction phase (condition 30). With these control measures in place, it is considered that the construction of the development would be acceptable.

Other matters

In regards to other matters not covered above, the 21 days period is in excess of the normal 10 day re-consultation period for additional material or amended plans; the impact on landscape character, the loss of the agricultural land, and crime have been addressed in the main report; whilst the proposal would lead to a significant change to the character of the area, it is not considered to lead to an industrialised appearance; the Sequential Test must include relevant criteria; there are benefits to the community since the local factory will be able to operate more sustainably; the infiltration tests are considered adequate to demonstrate that soakaways should operate appropriately and further details are controlled by a recommended condition; a condition is recommended to ensure that the appropriate drainage is implemented and is subsequently managed; the government's new planning regulations are still awaited; and whilst solar installations may be appropriate on industrial buildings, this does not preclude them on greenfield sites such as this; the plans and documents are considered adequate to enable an appropriate assessment of the development to take place, despite any minors errors or omissions; council officers have a duty to work positively and proactively with applicants; flood modelling from software whilst not necessarily perfect is the most appropriate methodology to employ; other local planning authorities must make their own decisions and these need to be based on their own planning policies and take account of the site constraints but ultimately each case is judged on its own merits, and there is no moratorium of solar farms or restriction to installing solar panels solely on commercial sites/buildings.

In light of the above assessment, it is considered that subject to the conditions set out in the main report, the development is considered to be acceptable and no change is proposed to that recommendation.

Recommendation

Approve subject to the conditions and informatives set out in the main report.

Ref. No. DMPA/2021/0315

Valid date: 25/03/2021

Applicant: Liam Kelly

Agent: Wardell Armstrong LLP

Proposal: The installation of up to 10MWp of solar photovoltaic panels and associated works, including substations, inverters, access tracks, security fencing and cameras at Land at SK1930 5342, Hawthorn Farm, Scropton Road, Scropton, DE65 5PR

Reason for committee determination

The item is presented to the Committee for the following reasons: at the request of Councillor Patten as the committee should debate the issues in this case which are very finely balanced; due to the receipt of in excess of four letters of objection against a major planning application; and at the discretion of the Head of Planning and Strategic Housing.

Site Description

The site lies on arable agricultural fields to the north of the village of Scropton which is approximately 2km from the larger village of Hatton. The fields are currently used for grazing and have strong hedgerow boundary treatments. The site is generally flat with a 2m variant in levels. Access to the site is taken from a short track leading off Scropton Road. Within the site are PROW no. 11 and 17 which run east-west and north-south and overhead lines (PHL) which run east-west.

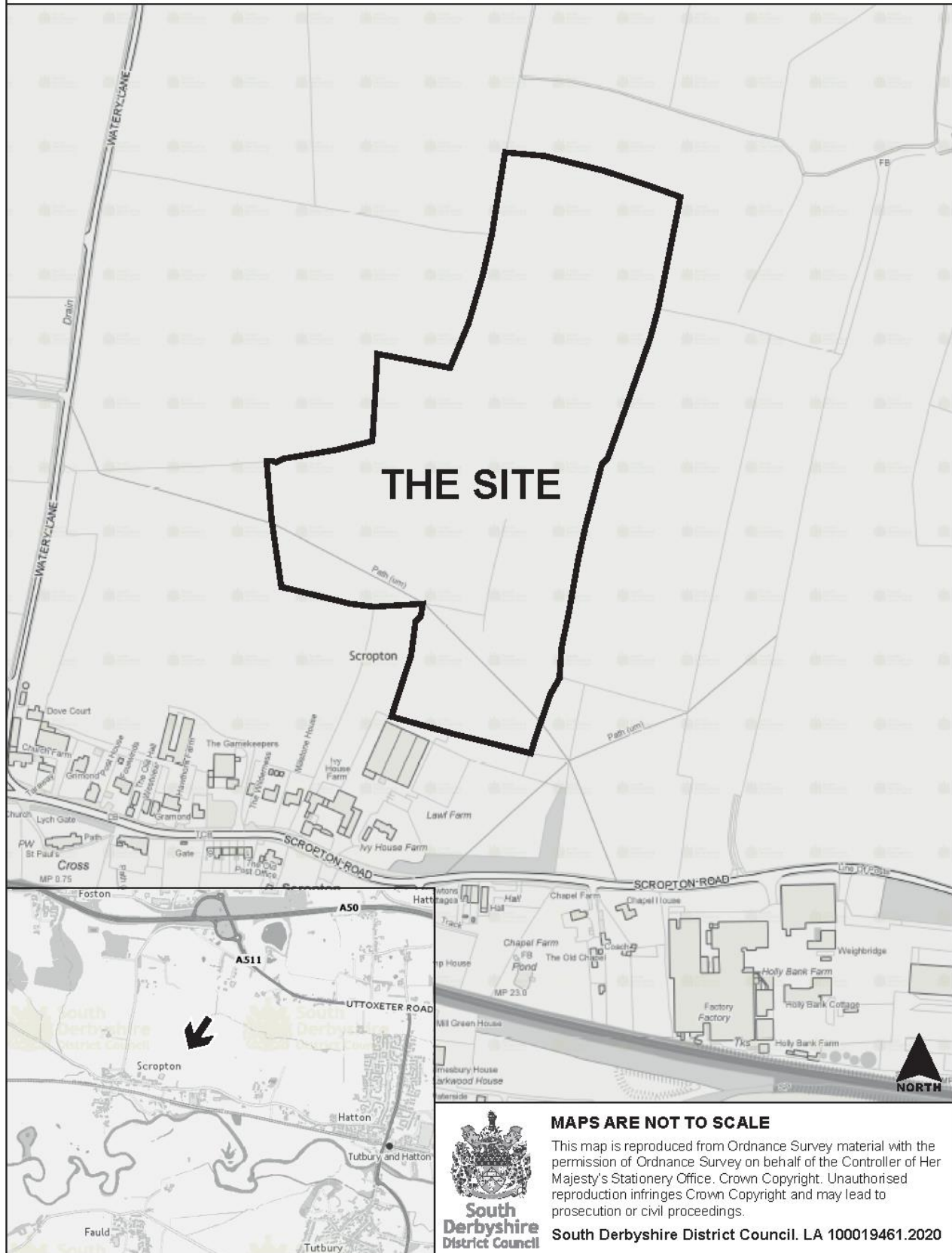
The proposal

The proposed development is to install up to 10MWp of solar photovoltaic panels and associated works, including substations, inverters, access tracks, security fencing and cameras. The proposals shall comprise primarily of solar panel modules which convert sunlight directly into electricity. The proposals include:

- Installation of PV panels, approximately 0.8m off the ground; with a maximum height of approximately 2.63m from ground level at a tilt angle of 15 degrees. Panels would have matt dark blue appearance and would not be reflective.
- Panels to be installed in arrays of 3 panels;
- Construction of ancillary works include access tracks;
- Temporary construction compound;
- Pole mounted CCTV cameras positioned around the perimeter fencing;
- 2m high fencing during construction period becoming 2.4m high fencing when operational;
- 4no. transformer substations (3no. 20ft and 1no. 40ft);
- A customer cabin;
- A Distribution network Operator (DNO) substation; and
- 27no. inverters (installed beneath the solar panels)

It is proposed an array of approximately 14,118 freestanding solar panels generating a maximum output of 10MWp electricity will feed directly into the Local Electricity Distribution network. The solar park is proposed to be an unmanned facility with underground cabling feeding into the control building from across the site and will be housed within the cavities of the buildings foundations. The inverters will change the power generated from the solar panels into DC power that can be used by the wider utility (WPD). Each inverter will be connected to a few dozen solar panel modules which would limit the single point of failure in the event issues are experienced. Inverters are proposed to be connected to one of 4no. transformers located within the site fencing which will be built to the standard specification

DMPA/2021/0315 - Land at SK1930 5342, Hawthorn Farm, Scropton Road, Scropton, Derby DE65 5PR



of WPD to meet their requirements. It is proposed that the solar panels will be constructed from toughened glass set in an aluminium frame. Beneath the glass is a non-reflective layer, electrical connections, silicon and a backing layer. This will minimise reflective glint and glare from the panels. It is proposed that the panels will be arranged in an east to west alignment facing south to maximise sunlight exposure. The panels themselves will be mounted on frames with a front height of approximately 0.8m and a maximum back panel height of approximately 2.63m creating a tilt angle of approximately 15 degrees. The proposed site area is approximately 9.62ha, however the equipment will be within the fenced area of approximately 8.15ha. It is proposed that the panels will be set back from the perimeter fencing to prevent overshadowing from adjoining vegetation and to provide a wildlife buffer. It is proposed that there will be a separation of approximately 2.3m between each row to ensure that panels are not overshadowed. The piles supporting the panels were mounted into the ground so minimal excavation is necessary. It is proposed perimeter fencing will be erected to restrict access to the site comprising of 2.4m high deer or similar fencing, which will be selected to minimise the visual impacts in keeping with the site location. The proposed access to the site will be made from Scropton Road with the entrance strip to the site from an existing track off Scropton Road which runs for 75m. During construction a purpose-built track would run to the site itself then entering a south western corner of the west field, likely to be crushed gravel to prevent flooding. A temporary construction track is proposed on part of PROW 11. It is considered that the construction of the scheme will take approximately 3 to 4 months. The proposed lifespan of the development is 30 years. Following the operational life of the development the site is proposed to be decommissioned which will involve the removal of all the materials and equipment that have been on site during the operational phase, which is anticipated to take 1-2 months and after which the site will be restored to its former condition of arable land, a contract that the applicants have entered into with the landowners. It is also proposed that detailed information boards will be placed along perimeter fencing of the PROW's to provide details of the scheme and information on biodiversity for the purposes of education.

Applicant's supporting information

Planning, Design and Access Statement February 2021 – The applicants GS Vogt Ltd (also proposed to maintain and manage the operation of the site) state they propose a very similar development to that approved under 9/2015/0688 however due to advances in solar PV technology in recent years the development will have a larger capacity yield of up to 10MWp electricity, along with the associated minor modifications to panel design and site layout. The applicant stated that they have worked with farmers and landowners to identify potential solar sites and only those considered to be as close to being 'constraint -free' and suitable for the nature of the proposed development have been entered into the planning process. The applicants state that this site was chosen for the development of solar energy as it has a sufficient area of flat open ground, a good level of solar irradiance and is free from constraints such as statutory environmental designations and overshadowing and is also well located to facilitate the connection to the National Grid. They state the proposals shall comprise primarily of solar panel modules which convert sunlight directly into electricity. It is considered that the proposed layout has taken into account positions of existing tree and hedgerows and that these will be retained. It is also considered that the solar park will not impact the PROWs running through the site and that access will still be possible to them through fenced enclosure. It is proposed access to them will still be possible during the construction period of the development. The applicants consider that the development would not significantly impact the landscape character of the area as the impacts are restricted to its immediate setting and the other proposed landscaping and habitats enhancements would assist in mitigation adverse effects of the scheme and reinforce local character. The applicants consider that the development would allow for additional biodiversity enhancements of the site as a result of the installation of species-rich grassland which will have a higher net biodiversity value than the current site use. The applicants state that the development will generate around 9,196,00 kilowatt hours of renewable energy per year to power 2,478 homes and for a 30-year lifespan this will offset 4300 tonnes in carbon dioxide emissions. The applicants consider the development to be in compliance with local and national planning policies in particular those promoting renewable energy generation.

Soils and Agriculture Assessment February 2021 – This notes that the land in SDDC for over half is land classified as Grade 3 (potential to be BMV) with 20% classified as Grade 2 (BMV) and 13% Grade

4 (non-BMV). The site is split between Type 1 light texture soils at moderate risk of erosion and Type 2 medium textured (clay-rich) as at low or very low risk of erosion. Due to the mitigation measures proposed throughout the site the potential loss of soil resources from the Site is considered to be less than 5% as a result of unavoidable track-out from construction vehicles wheels and that overall this is a negligible loss and thus the impact of the development is not significant. Mitigation methods are proposed to minimise impacts to the soils highlighted for the construction period of the development and to allow for retention through appropriate grass herbage mix planting (which is said to have been undertaken in March 2016) to help prevent erosion from water run-off from the PV's during its use as a solar farm so it can return to arable agriculture following this. It is said that the construction period will be managed so that works are programmed when the soil is dry to minimise damage during handling or trafficking typically between April and September. No cumulative effects on land use, soil resources or land classification are expected due to the proposed development. The applicants conclude that 'due to the potential for the continued use of the majority of the land within the Site for agricultural purposes; the negligible area of temporary land loss due to the maintenance track and infrastructure; and the low levels of disturbance to the soil resources, the proposed Solar Farm would have no significant effects on agricultural or soil resources. They consider that as SDDC 'comprises a high proportion of good quality land, therefore relocation of the proposed development is unlikely to change the outcome of the impact on soils and agriculture, with a potential to impact higher quality land (Grade 2) which provides higher agricultural value than that of the current proposed site'. Overall it is concluded that 74% of the land is Class 3a (good quality) and 26% Class 3b (moderate quality).

Archaeology and Cultural Heritage Assessment (incl. Geophysical Survey Report) December 2020 – The applicants assessment includes baselines information from the Derbyshire Historic Environment Record, Historic England data sets, the Derbyshire Record Office, a Site walkover survey and a geophysical survey. The assessment concludes that in respect of potential buried archaeological remains there is no evidence to reasonably indicate the potential for presence of unknown remains which would preclude development and in accordance with a previous permission the proposals should be granted (on archaeological grounds). No further survey works are recommended on a prior to determination basis and a suitable planning condition could be attached to the western part of the Site where remains of potential prehistoric date are anticipated from the results of the geophysical survey to secure suitable future prior to commencement survey works/watching briefs. It is not considered that the development would adversely affect any designated heritage assets through changes within their setting with no harm identified to them. The applicants therefore consider that the proposals comply with legislation and policy on archaeological and heritage grounds subject to the use of planning conditions.

Preliminary Ecological Appraisal Update Report February 2021 – In this document the applicants undertook a PEA which comprised a desk study and extended Phase 1 Habitat Survey. This Appraisal identified the following ecological features may be subject to adverse effects in the absence of mitigation: running water (wet ditches), NERC s.41 Hedgerows; Reptiles; Nesting Birds skylark; bats; badger; brown hare and hedgehog. As a result additional assessments, surveys and pre-construction checks were recommended as necessary to fully inform the planning application: pollution prevention measures; retention of NERCs 41 hedgerows and broadleaf scattered trees; vegetation clearance and solar panel implementation to be undertaken outside of bird nesting season; pre-construction nesting bird checks; sensitive lighting scheme for bats; pre-construction check for badger setts; and precautionary working method to avoid potential impacts to reptiles, brown hare and hedgehog. The appraisal recommended wet ditches are protected by 10m buffers to prevent pollution run off through measures within a CEMP, the same buffers are recommended for hedgerows. As it is considered that there is unlikely GCN in and around the site solely Precautionary Working Method Statement will be included in any Biodiversity Method Statement to minimise risk of incidental harm to amphibians and reptiles (also for Brown Hare). The Appraisal also recommends for nesting bird such as skylark present on the site that works not be undertaken during nesting bird season or otherwise a presence check 48 hours before work commences by an Ecologist, plus other skylark enhancement. It is also stated that the mature or scattered trees etc. will be retained as they are suitable for foraging and commuting for bats and that for further mitigation lighting and any removal of trees would require prior approval or future surveys. It is considered that the solar farm would not result in any impacts to statutory or non-statutory designated sites. The applicants opinion is that the recommended mitigation measures will

ensure that the development would not affect protected or notable habitats or species and that these should be delivered through a Biodiversity Method Statement and managed long term through an appropriate management plan such as log piles for invertebrates etc; enhancement of species poor hedgerow and infilling of gaps adding native fruit trees for birds; bat boxes into existing trees and grassland management by sheep within site, though not April to July to allow plants to flower and set seed for skylark. The applicants consider that the proposals offer opportunities to enhance the biodiversity value of the site in line with local and national planning policy.

Biodiversity Management Plan February 2021 – This follows on from the Preliminary Ecological Appraisal (PEA) December 2020 (WA,2021) and the Phase I habitat plan assessment in the appendices of that document (GM10971-001). The applicants consider that the management, methodology, precautionary methods and mitigation provided within this document are suitable for protecting habitats and species present within the locality and that as a result of the management plan it is envisaged that there will be an overall net increase in the nature conservation value of the Site. The applicants consider that the mitigation measures and habitat enhancement opportunities the development will facilitate will meet local BAP objectives and contribute to nature conservation targets for Lowland Derbyshire. The plan provides details of badger mitigation in the instance that badgers re-occupy the site between the period the assessments and surveys were made and before construction starts on site. The BMP contains general aims alongside specific objectives to provide on-site mitigation and the increase of overall biodiversity value on site as a result of development. The specific objectives listed are: objective 1 - to maintain and enhance existing habitat connectivity throughout the Site by maintaining structural diversity and linear vegetation features; objective 2 – to maintain value of the site for protected and notable species present in the locality by providing suitable habitat for breeding and access into the Site for foraging and commuting; objective 3 – to enhance plant species richness across the site post construction through native wildflower planting underneath solar arrays and objective 4 – to ensure the continued use of habitats within and adjacent to the proposed site by foraging and commuting species in the locality during the construction and operation phases of the proposed solar farm. The BMP also includes how the different operatives in developing the proposals will be instructed on how best to manage and mitigate for biodiversity at the different stages of the development appropriate for their various roles such as: Ecological Clerk of Works; Site Manager and Site Operatives.

Construction Traffic Management Plan February 2021 – The applicants consider that the existing highway network: A50 dual carriageway running east to west to the north of the site, Watery Lane (two way – national speed limit) which runs from the A50 junction south and Scropton Road (two way – 30mph) are suitable for use as points of access onto the track where the site starts for both maintenance of the development for its lifetime and during the construction period. For the construction period of the development it is proposed to use Leathersley Lane (two way – national speed limit then 30mph through Scropton Village) and the A50 following communications historically between the LPA (2015), CHA and the applicants. The site access will be made directly onto Scropton Road where there will be adequate visibility splays and sufficient width for HGV movements which will be managed by staff on site during construction. It states that there will be a temporary construction compound constructed to the west of the site entrance to the solar field which will include cabins, site office and dry room for operatives. To minimise impacts on the highway deliveries will be restricted to the quiet periods between morning peak and mid-afternoon school run with no other significant uplifts long term in traffic movements or intensification on the highway (maximum 2no. additional two way trips per day). A specific haulage route has been proposed from Scropton Lane and from the west via Watery Lane and the A50. Normal non-delivery traffic and vehicles will arrive before peak periods. It is considered that the proposed development will not create any significant adverse effect on the current operation of the highway network.

Dust Management Plan February 2021 – This Dust Management Plan was prepared in line with condition 16 of 9/2015/0688 (expired). It provides details of the activities most likely to lead to dust and fine particulate matter (PM10) during the construction phase are identified and proposed mitigation measures, to minimise the risk of effects for the closest sensitive receptors and concludes that subject to the mitigation measures described and low number of vehicle trips it is considered that any effects are ‘not significant’ noting also sensitive receptors such as dwellings in an otherwise rural area, are

located 95m to the south in an area with no known air quality issues. The mitigation measures include: contact for air quality management; air quality/dust complaints log with reduction measures and time column; training of employees; daily on-site and off-site inspections for dust monitoring, site access road and proximity to residential properties; solid screens and barriers around high potential dust areas with cleaning; materials with dust potential to be removed as soon as possible; vehicle engines to be off when stationary; cutting etc. to have dust suppression; drop height minimisations; wheel washing facilities and covering of vehicles. Subject to these methods of construction management and mitigation the applicants consider that the development would be in compliance with local and national planning policy.

Flood Risk Assessment and Sequential Test (incl. Surface Water Management Plan) – The assessment considers that the development of a solar farm considering Table 2 of the PPG would be a 'Less Vulnerable' development. The EA Flood Map for Planning shows the site to be located in Flood Zone 3 adjacent to the River Dove benefiting from flood defences. Nearby watercourses include an unnamed watercourse near Watery Lane which passes beneath Leathersley Lane within 2no. culverts before discharging into Foston Brook to the south of the railway, an unnamed stream to the north of the site and Foston Brook 800m to west of the site which flows into the River Dove 420m from the site. In terms of the Flood Risk Sequential Test it states that in order for the solar farm development to be financially viable it must be located within 2.5km of the point of connection (PoC) proposed by the Distribution Network Operator (DNO). It states that the PoC is located to the north of the River Dove and the Crewe to Derby railway, it would not be feasible to locate the solar farm to the south of these features as the connection would be less financially feasible. The proposed development seeks to extend an existing site owned by the Client and, consequently, no alternative sites are available in respect to NPPG in guiding development to Flood Zone 1 where possible. The applicants consider due to buildings, transport infrastructure, watercourses and woodland all having buffers between 10 and 20m applied to them this further restricts areas where the development can be located. Taking these points into account result in the Exception Test not being required to be applied. The site is generally flat and the existing drainage regime is assumed to be drainage to ground, drains or overland flows (eastern) though some small field drains to the western and south-western boundaries exist. The nearest foul drain according to Severn Trent Water which is a 100mm diameter pipe pumped foul drain to the north-western end of the site 10m from the boundary and a public surface water sewer 140m south of the site in Leathersley Lane. The Flood Risk setting is considered to be 3a and therefore does not constitute 'Functional Floodplain (Flood Zone 3b)'. The ground condition survey confirms the site to be superficial alluvium deposits consisting of clay, silt, sand and gravel. The MAGIC map states these to be 'Secondary A' aquifer defined by A as 'permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers'. The bedrock geology is recorded as mudstone a 'secondary B; aquifer defined as 'predominantly lower permeability layers which may store and yield limited amounts of groundwater due to localised features such as fissures, thin permeable horizons and weathering'. The assessment makes note of historical flood events in the village of Scropton such as 1981 and 2000 where Foston Brook overtopped flooding properties and high-water levels from River Dove noting also field runoff and poor highway drainage maintenance contributed. The assessment makes reference to a 2012 report for Flood Risk in Scropton. Further not specifically defined locations of flooding in the wider Derbyshire area are also listed. The assessment confirms the site is not at risk of tidal flooding. In terms of fluvial flooding Foston Brook and River Dove respectively 440m to the west of the site and to the south, this risk based on improved defences @ a 1 in 100 year standard protection of flooding and flood level data modelling plus distance of the site from the catchment, the overall fluvial flood risk from these is considered low. The assessment concludes that the risk of flooding of the site from sewers, groundwater and artificial sources is low. In terms of the flood risk from the development this is considered to be low as the panels will be supported on metal posts driven into the ground without a concrete base with a minimal surface area which would not affect present character of the ground and rain falling off them will run onto the ground and disperse by a combination of infiltration, transpiration, evaporation and runoff, mimicking the existing greenfield characteristics. Providing that the grass is maintained underneath the development would not significantly impact runoff volumes and rates with no net increase reaching the site boundary as a result of the panels. It is not considered that the fixed plant, cabins and access tracks due to their limited area will impede or increase runoff and will be directed to ground for infiltration or to soakaway (or combination). In terms of fluvial flood risk as a

result of the development due to the unmanned nature of the site with limited visits the risk to humans as a result maintaining this in the instance of loss of floodplain or fluvial flooding is considered to be low. In terms of surface water risk as a result of the development linear swales/open ditches are proposed before site boundaries to prevent flows to the wider area. Management of grass under the panels will be important for this. The construction of the tracks serving the site are not confirmed but assumed to be permeable free-draining material that would not impede infiltration. Taking all this into account the applicants consider that from a flood risk perspective, the site is suitable for the proposed development.

Landscape and Visual Impact Appraisal February 2021 – concludes that the proposed solar scheme would not result in prominent effects upon the surrounding landscape beyond ; 800m to the north and east, 400m to the south and 350m to the west. The assessment notes the site to be wholly located within the 'Lowland Village Farmlands' LCT of the Trent Valley Washlands as defined within the Landscape Character of Derbyshire County Landscape Character Assessment. The site itself would experience direct landscape effects that would be prominent, these would be reduced during the operational phase and reversible in the long term. Additional planting would be beneficial to the landscape character in the long term alongside retention of all trees and hedgerows throughout. The development would result in prominent effects from one settlement within the study area, for some properties within Scropton village. One property it is considered would experience severely adverse effects, on account of proximity and lack of existing screening. A limited number of other properties, within close-proximity it is considered would experience prominent effects; Over time with new planting and management these effects would be reduced. There would be no prominent views from the road, the national cycle network, or recreational receptors and visitor attractions. Footpath routes across the site would experience prominent views, though site assessment indicated that these footpaths are not well used, marked or defined. Footpaths beyond the immediate area would not experience prominent views. The addition of land at Hawthorn Farm to the existing solar scheme adjacent Leathersley Lane would not result in prominent cumulative landscape or visual effects due to the intervening distance, low-lying topography and vegetation. It is suggested that the track across the field to the site would be gravelled for construction purposes, with a reinforced grass system established in the operational period. The applicants consider most landscape impacts would be in the 2/3 month construction period when construction activities are on site.

Statement of Community Involvement February 2021 – The applicants state that community consultation of the potential future application and proposals was undertaken by means of a website launched on 11th January 2021, emails to the Foston and Scropton Parish Council and Cllr Patten, Parish Council meeting on 2nd February 2021 and letter drop 19th January 2021. It is stated that 1no. response to the website was received raising concern at potential blocking/diversion of a PROW onto a dangerous country lane and potential overhead pylons. In response to the Parish Council meeting the applicants noted topics raised following a presentation and Q&A covered: footpaths; flood risk and permeability; cumulative impact of construction vehicles due to the planning application for housing DMPA/2019/1198; impact of the grid connection on internet connectivity; maintenance of the site and vandalism. The applicants consider due to the appraisals conducted, either there will be no impacts on these elements or they will be temporary with mitigation proposed to ensure impacts are limited to nothing or negligible.

Assessment of Alternatives February 2021 – The site is acknowledged to be Grade 3a (74%) and Grade 3b (26%) agricultural land following DEFRA mapping. The applicants note that the main constraints within the search area are woodland, surface water and buildings also noting avoidance of: landscape designations including AONB; Green Belt Land; designated heritage assets and avoidance of high value ecological designations. In addition the suitability of locating a solar park to generate the required yield also encompasses appropriate topography, stand-offs from railways, rivers, flood zones less than 3 roads and hedgerows was also considered in selecting this site. From research of alternatives within 2.5km of the grid connection and a private wire connection to Avaro Foods it is noted that consent of the landowner is an important factor in the deliverability of a project and that GS Vogt Lt'd preferred approach is to deal with a single landowner which provides a further constraint to find 9.62ha of land suitable for 10MWp solar park in the grid connection area – which Hawthorn Farm provides. The applicants conclude that the proposals represent a farm diversification scheme and that

agricultural use will continue throughout the life of the solar park and as such no agricultural land will be lost as a result of the scheme. The applicants consider that biodiversity will be enhanced within the site and on decommissioning the land will be restored in line with current best practice at the time and that the barriers to development such as site access and ecological impacts have been demonstrated and are considered to be manageable. The applicants consider finding alternative sites that satisfy all these criteria and where the landowner can accommodate the proposed development is difficult. The applicants argue that if an alternative site could be found that is suitable for PV development then this should be developed as well as, rather than instead of the Hawthorn Farm site. The site is considered to be most viable when the grid connection as it is by far the closest site to the PoC and Avara Foods. The report also considers roof top mounted solar, though they note there is no planning policy requirement to demonstrate the overall need for renewable energy proposals and no specific policy requirement to sequentially consider rooftop ahead of ground-based. The report includes an assessment of large-scale roofs in the search area suitable for the scale and orientation of the panels on the roof, the two most suitable being the Nestle Factory in Hatton and Keuhne and Nagel Distribution Centre. The Nestle Factory was discounted due to scale and orientation issues noting the site themselves have ground mounted solar PV which may suggest roof mounted was not suitable and thus used redundant land to deliver their renewable energy strategy. The Keuhne and Nagel Distribution Centre was discounted due to the presence of skylights in the roof structure and that the A50 is located between the building and the PoC and would make the connection less viable as it would have to cross the road. The smaller factories with suitable roofs were discounted due to roof size included Dove Valley Park, JCB Power Systems, Dairy Crest and Trauma UK. The report concludes that the constraints identified severely limit the available land within the surrounding districts for solar PV development and indeed, in avoiding nature conservation sites, Green Belt and AONB land, the vast majority of the three districts not constrained by these designations is agricultural land classified at grade 3 and 4. The report concludes that the site has been demonstrated as preferable to the alternative sites identified as it is available, deliverable and avoids impacts on ecological or landscape designations.

Relevant planning history

DMOT/2021/0137 - Screening Request relating to proposed installation of photo-voltaic panels, inverters and transformers to produce renewable electricity on – Not EIA development – February 2021

DMPA/2020/0339 - Certificate of Lawfulness for existing development to determine if application ref. 9/2015/0688, relating to the installation of photo-voltaic panels, inverters and transformers to produce renewable electricity, was lawfully commenced at – negative certificate issued – November 2020

DMPA/2019/1198 – Erection of 10 no. dwellings – under consideration

9/2015/0688 - proposed installation of photo-voltaic panels, inverters and transformers to produce renewable electricity on – approved with conditions – 16th December 2015 – conditions discharged 3, 4, 5, 6 and 20 dated 5th May 2016

Responses to consultations and publicity

Environmental Health – no objection subject to conditions covering – Dust Management Plan

Environment Agency – no objections but referred it to the LLFA as the area benefits from flood defences has in recent years experienced surface water flooding, and therefore they should assess pluvial flood risk to adjacent properties and land does not result from this development by ensuring SUDs systems are implemented within the development and thereby preventing an increase surface water run-off/discharges from the site.

Derbyshire Wildlife Trust – no objections subject to use of planning conditions as follows: implementation of measures within Biodiversity Management Plan and as shown on Landscape Planting Plan to provide an overall net gain in biodiversity.

County Highways Authority – no objection subject to conditions covering: implementation of

Construction Management Plan; plant storage as per plan GSV1002-100E; wheel cleaning facilities; HGV haulage route inspections; CTMP and highways works remedial works programme submission for decommissioning.

LLFA – no objections subject to conditions: prior to commencement detailed design and associated management/maintenance plan of surface water drawing; prior to commencement detailed assessment in respect of destination for surface water; prior to commencement details of surface water management during construction phase and prior to first use verification report by drainage engineer. Informatives are also suggested.

Peak and Northern Footpath Society – object for the following reasons:

- The effect on users of the footpaths which cross the site would be “substantially adverse”.
- It seems the developers would be content to make the public walk along fenced corridors to cross the site.
- The development might be good in terms of the sustainable production of energy, but for the people who use these paths for informal recreation to benefit their health and wellbeing, particularly to link to the extensive network of paths in the countryside to the north of the site, the development would be disastrous.
- If the development must use this site, it would be possible to legally divert the paths so that their use by the public remains enjoyable.

Derbyshire County Council Archaeology – no objection subject to conditions securing prior to commencement archaeological field evaluation (trial trenching) and subsequent recording depending on the results of the trenching due to the potential presence of below ground archaeological features or probable prehistoric origins.

East Midlands Airport – no objection subject to informatives in respect of crane and tall equipment notifications.

Derbyshire County Council Minerals Officer – no objection - as the development would be a temporary use of the land, it would not lead to the permanent sterilisation of the sand and gravel resource; the sand and gravel would still be available once the development has been removed. Also, the site has not been put forward, or identified as being required, for sand and gravel extraction in this plan period to 2038. Therefore there are no objections.

Derbyshire Planning Policy Officer – no objection – considers the proposals will help SDDC and County as a whole meet carbon budgets and provide net zero carbon energy contributing to UK 2050 goal. They also consider that while the site is large it is relatively well screened by existing field boundaries with scattered hedgerow trees to be retained as part of the development and as such the site is not visually prominent when viewed from the village and as such they do not consider the development to be disproportionately large in comparison to the scale and nature of Scropton village. They recommend the development is carried out in accordance with the Biodiversity Management Plan and Landscape Planting Plan. They would have liked to see more creative access and educational solutions for local community in respect of on-going community involvement. They also commented that while existing footpaths through the site are to be maintained, public access to the site appears to be limited and restrictive. Sought conditions for: associated battery storage for storing excess energy and to help balance grid.

Derbyshire County Council Landscape Architect – no objection – they consider that the site looks to have been carefully selected as it does not abut any local roads or obvious locations that overlook the site including Scropton village. They also note the two footpaths crossing the site are relatively short sections and the panels are proposed to be set back so that relatively generous rides are created. They state that while the LVIA suggests theoretically large areas of potential visibility may be possible due to flat low-lying landscape, actually the site is well screened by existing field boundaries with scattered hedgerow trees and these will be retained in proposals noting proposed height of panels around 3m. They also note where there are gaps in hedgerows these are proposed to be replanted incorporating further hedgerow trees which would also reinforce wider landscape character area. They consider that

while there will be significant adverse visual impacts from the footpaths crossing the site as acknowledged in the LVIA, these are relatively short sections with other routes available locally. The officer seeks a planning condition be attached to any approval to include scheme for long-term management of all hedgerows around the site to ensure that they maintain their screening value throughout the lifetime of the solar farm (30 years).

Designing Out Crime Officer – no objection subject to conditions as follows: further details of CCTV systems for the site and purposes of monitoring as per previous permission.

11 no. letters of objections have been received from the public during the original consultation period raising the following comments:

Principle of the development:

- a) The development is proposed on good farmland currently in use for growing of food crops and as such it is at the expense of food crop production.
- b) The development is unnecessary as renewable energy targets have already been met.
- c) 35GW capacity has already been consented and a further 18GW of capacity in the planning system according to the Renewable Energy Planning Database (REPD) and therefore would exceed the Treasury's cap on subsidy spending.
- d) The development is not required and would waste valuable local authority resources and remove good quality agricultural land (3a) and instead place solar panels on buildings/other land.
- e) The solar farm is small scale so what is the need for it.
- f) It is SDDC duty to ensure the Counties agricultural land is not diminished where there is no genuine reason noting solar parks already exist at Ashton Heath Farm - Sudbury 0.75m, Rolleston Park Farm – Tutbury 2.5m, Dove View – Marchington (application in) 5m, Toyota – Burnaston 6.4m, Drakelow Power Station 9.7m.
- g) The NPPF directs use of brownfield land first.
- h) The argument that grass and grazing land can be created under the panels is not accepted as at other sites like Ashton Heath Solar Panel Farm only weeds grow and nothing to say that would not be different in this instance. Strong planning conditions would be required to cover this to cover: responsible parties for cleaning up the site reverting back to agricultural use; materials used are recyclable; provision in place for this if the company goes out of business or landowner dies etc.
- i) Too much development like DMPA/2019/1198 for 10 houses and 9/2018/0064 extension to Avara Food factory has been granted in Scropton and it is diminishing the village.
- j) Scropton identified as possible site for sand and gravel which is out for consultation which combined would have a huge impact on the village.
- k) The landowner has an alternative site that this site could be housed on.
- l) Unclear how many panels would be involved ie. 14118, 14820 and 16770 are the numbers stated in the various supporting documents.
- m) The fields are grass and not used for equestrian or grazing use as applicant claims, nor is there a wall between Hawthorn Farm and Lawfl Farm, the wall is behind existing sheds to stop cattle encroaching neighbouring fields.

Impacts of the development on biodiversity and nature conservation:

- a) Arable crop land is key to the conservation and sustainability of the biodiversity of our environment, therefore the development may potentially impact ecology as a result of the installation of solar photovoltaic panels, presumably ground mounted.
- b) The removal of vegetation including trees, hedgerows etc. has negatively impacted biodiversity efforts and nature conservation.

Impacts of the development on pollution:

- a) There is a lack of recycling opportunities for solar panel recycling and to grant permission for this will add to this issue and add to burden on resources adding to scarcity issues in the future.
- b) Toxic materials and hazardous products used during the manufacturing process of the solar panels can affect the environment.
- c) The solar farm will require maintenance dependent on fossil fuel powered vehicles.

- d) To decommission the farm it will require significant time and energy to return the land to its pre-disturbed state and the changes made may not be reversible.
- e) If the solar panels break contaminated effluent may run into fields and then cause issues to peoples health long term.

Impacts of the development on landscape and visual character:

- a) Several developments have negatively impacted the character of the area with vast amounts of hedges, trees and shrubs removed.
- b) As per the LVIA the landscape will be impacted by: alterations to the site access track during the construction period; temporary construction compound and stockpile area; construction of the solar farm; installed solar panels across the site; the transformer substations; grid connection via a substation; permanent site access and onsite tracks and surrounding security fences.
- c) The large area required would interfere with existing land uses and impact on the area and surrounding uses.
- d) Erection of 2.4m high deer fencing would not be in keeping with the area especially when leaves are shed from trees/hedges. This is the same for the significant industrial equipment, substations etc. close to residential properties.
- e) Significant negative visual impacts for neighbouring residents due to the presence of so many solar panels including restricting rural views enjoyed from the public footpaths.
- f) Significant landscaping conditions would be required to provide adequate landscaping conditions and management so that future landscaping requirements do not fall to local people to manage which may cause conflicts.
- g) CCTV mounted on 4m poles above the deer fencing will be visually intrusive and detract from local area character and that of the landscape, noting CCTV is not normally seen in Scropton.
- h) Poor visual amenity for immediate neighbouring residents due to difference between rural outlook and industrial solar panels.
- i) Footpaths should not be obstructed as a result of this development, fencing in of the PROW's (numbers 11 and 17) not appropriate.
- j) There is no way that the landscaping proposed could effectively screen the development.
- k) The cumulative visual impact of several solar parks in the immediate two mile area should be taken into account as per Planning Practice Guidance from the DCLG on page 40 for Renewable and low carbon energy.
- l) Confusing statements in documents about angles of tilt for the panels like that between Planning Design and Assessment and Soils and Agriculture Assessment.
- m) Statements about the provision of solar grass soils are not true.
- n) The site is mostly flat with some undulation so can be seen readily.

Impact of the development on amenity:

- a) Serious concerns raised for residents living directly adjacent to the solar farm as impact of the development would be huge on quality of life.
- b) No information within supporting documents talks about noise, how will noise of equipment be abated to control for neighbouring residents.
- c) How will noise from construction period be managed which is due to take place over 8-12 weeks.
- d) All of the equipment solar panels, substations, CCTV poles, perimeter fencing, hedgerows and inverters less than 100m of residential properties.
- e) It is not clear from the submission whether the noise levels quoted are for the whole facility or individual bits of equipment and it is not clear whether abatement can be sought.

Impact of the development on flood risk and water management:

- a) The site is located wholly within Flood Zone 3 and residents are therefore concerns about possible increase in flooding due to the loss of natural drainage of the site and increasing run-off and ill-maintained highways such as Watery Lane.
- b) If the development is approved then substantial planning conditions should be attached to ensure: minimal vegetation disturbance during construction; re-vegetate asap to establish and maintain ground cover with post construction timeline; conduct regular inspections and maintenance of the site to ensure vegetation cover is adequate.

- c) The development will reduce the ability of the ground, due to the provision of solar panels, to absorb water through greenfield means and this will therefore pass via the channels and discharge into nearby houses, resulting in higher insurance premiums to cover this.
- d) The existing flooding problems will be exacerbated by heavy construction periods and steel rods.
- e) Flood risk mapping and recording does not mirror situation on site including agricultural fields and Foston Brook, noting this caused issue to the footpaths making it hard to cross in inclement weather.
- f) Applicants flooding information is unclear which event on Watery Lane are they referring to when talking about ditches being cleared etc. to the lane.
- g) Up to date floods information should be provided.
- h) There is conflicting 'evidence' in the Soil and Agriculture Assessment about on-site flooding, residents note it has flooded and water regularly leaks from the soil.
- i) Scropton has flooded three times this year.

Impact of the development on highways safety:

- a) The number of additional vehicles will have a significant impact on the volume of HGV's travelling through the village and will cause traffic build up, intensification, delays and impact quality of road surface, not acceptable in a small village.
- b) Noise, dust and general disturbance from construction vehicles will impact safety and amenity.
- c) HGV route shown in Traffic Management Plan at Watery Lane and Scropton Road is the worst route for HGV's to use as the edges of these highways are being eroded and pushed back into the Brook running its length causing frequent flooding to this stretch of highway. It is therefore not suitable and should not be used for construction traffic.
- d) If permission is granted construction management hours should be amended to ensure highways safety, traffic management and manage amenity.
- e) There are already highways issues as a result of HGV's cutting through the village to avoid flooded roads or to go between nearby industrial sites or when the A50 is overloaded.
- f) The access of Main Street is an unclassified road barely wide enough for a white line.

Other issues:

- a) Solar panel farms present a fire risk.
- b) Application contains a number of inaccuracies/misleading statements.
- c) Cllr Billings previously supported residents in not supporting the application citing that following site visit to the closest residential property to full comprehend the severity of impact to neighbours they could not support it.

2no. letters of support have been received from the public during the original consultation period, raising the following comments:

- a) Great that more environmentally friendly initiatives are to be installed and supports the move away from fossil fuels.
- b) No issues with visibility of the panels as it cannot be seen from the highways and would not impact anyone.

2no. letters of support were received from the applicants during the original consultation period which cannot be counted as formal letters of support.

Foston and Scropton Parish Council – object to the application for the following reasons: the entrance and exit between 2no. blind bends on the Main Road through Scropton which will constitute a traffic hazard.

3no. letters of objections have been received during the re-consultation period raising the following comments:

Impacts of the development on landscape and visual character:

- a) The 40ft transformer, 20ft transformer station and customer cabin are situated to the southern end of the site close to the main gate and as they will be placed on a concrete plinth they will be more intrusive on visual and landscape character of the area. No details of concrete plinth provided.
- b) The number of proposed CCTV cameras on 3m posts will cause visual clutter and will also be on concrete bases and thus taller than shown and will cause detriment to landscape character. No detail of concrete plinth provided.

- c) The CCTV is not required as following neighbouring solar farm thefts many years ago there haven't been any since, so why is this required here considering how they will look and that nothing could screen them. Crime is also low anyway in Scropton village.
- d) The deer fencing proposed, possibly to be painted green is not indicative of the immediate area and should be amended.
- e) No details have been provided of external lighting.
- f) The visual impact of neighbouring residential properties along the south and south-western boundaries of Scropton will be severely adverse and will appear like a prison compound due to volume of panels, fencing, gates and security features and is not small-scale rural development supporting a village.
- g) Uncertain how tall the proposed landscaping planting will grow and consider the amounts proposed are insufficient for their purpose. Even if they grow to 3m there is not indication of how they will be spaced to secure the sufficient screening cover.
- h) Insufficient tree planting to southern boundary, but to the south-western boundary closest to the applicant has denser planting.
- i) The hedgerow planting will not provide sufficient screening for many years due to time taken to establish, with the slowest growing species to southern boundaries nearest to sensitive end receptors.
- j) The meadow/tussocky grassland species proposed is unlikely to work due to slow germination and growth and unlikely to flower in first season. Aston House Solar Farm used tussocky grass and it appears as if disused industrial estate not in keeping with wider area.
- k) Unsure how weed growth will be managed to maintain various grass options proposed for planting, concern it will turn into scrubland. How can livestock use this?
- l) What trees are within the existing orchard?
- m) The 2no. types of PV panels and module frame specifications have not been confirmed.
- n) Colour of gates, fences etc. have not been confirmed which could cause inappropriate colours to be chosen.
- o) The heights of gates and fences are too tall and overbearing for immediate residents, footpath users etc.
- p) No specification of information boards along fencing adjacent to PROWS provided.
- q) What is the plan for decommissioning the development in respect of landscaping, other than restoring to its previous use.

Impact of the development on amenity:

- a) Residential properties are sensitive noise receptors and the siting of the various compounds, cabins and transformer stations is closest to these receptors and may cause noise issues for these residents as a result.
- b) The dust management statement says there will be dust plumes visible, how will this be acceptable on peoples health during construction phase. Environmental Health were incorrect not to raise issue on this basis.
- c) Whilst it is said the panels will not be reflective 100% absorption of light is not possible and adjacent neighbours may experience glare issues which may cause nuisance.

Impact of the development on flood risk:

- a) Leathersley Lane running westward out of Scropton to A515 junction at Sudbury was not known to flood and following erection of solar farm on north side of that road in Sudbury the road now regularly floods near the installation.
- b) The Environment Agency response does not take into account recent flood events in 2020/21 on Watery Lane and Leathersley Lane which had to close for flood events. Why have they not raised objection considering the amount of reports from residents to the relevant authorities over the years.

Impact of the development on highways safety:

- a) The previous permissions using the same entrance route and highways access had to be modified for highways safety reasons as a result of accidents.

Impact of the development on archaeological potential:

- a) What methods are in place to ensure the developer complies with the archaeological directive that nothing can be commenced until recording scheme has been agreed and undertaken.

2no. letters of support have been received from the public during the re-consultation period raising the following comment:

- a) Great investment for the future.
- b) The development will help address the Council's and wider climate change goals and the development should be completed as soon as possible to help build a better future for the next generation.

2no. letters of support were received from the applicants which cannot be counted as formal letters of support.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF5 (East Midlands Airport), INF7 (Green Infrastructure)
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE6 (Agricultural Development), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)
- Derby and Derbyshire Minerals Local Plan – MP17

The relevant local guidance is:

- Trees and Development SPD
- Landscape Character of Derbyshire – Trent Valley Washlands

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF) 2021
- Planning Practice Guidance (PPG): Renewable and low carbon energy

The relevant legislation is:

- The Town and Country Planning Act 1990

The relevant emerging plan:

- Derbyshire Minerals Plan

Planning considerations

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

- The principle of the development
- The impact of development on agricultural land
- The impact of the development on local character
- The impact of the development on trees, hedgerows, landscape character and footpaths
- The Impact of the development on biodiversity
- The impact of the development on highways safety
- The impact of the development on residential amenity
- The impact of the development on minerals safeguarding
- The impact of the development on designated heritage assets and archaeology
- The impact of the development on East Midlands Airport operations
- The impact of the development on flood risk and water management

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of the Schedule 2 to those Regulations, being an installation for production of energy. However, having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to provide any fundamental alterations of the conclusion previously reached that

significant environmental effects would not arise in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning assessment

The principle of the development

The most applicable policies to consider are S1, S2, S3, E7 and SD6 of the LP1 and SDT1, BNE5 and BNE6 of the LP2.

SDT1 of the LP2 provides definition of the limits of a settlement, ie. settlement boundaries. According to Appendix A the proposed access road located at the south-west of the red edge which leads to the wider solar park compound to the north, is in part located within the Scropton settlement boundary, with the majority however being located beyond settlement boundaries in agricultural fields. Scropton settlement is defined as a Rural Village. The majority of the site is therefore located in a rural area/ open countryside location. To this end policy BNE5 of the LP2 'Development in Rural Areas' is relevant which states that 'outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

- i. allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- ii. otherwise essential to a rural based activity; or
- iii. unavoidable outside settlement boundaries; or
- iv. considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap not for normally more than two dwellings, within small groups or housing; and
- v. will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.'

Following on from this it is important to consider policy SD6 of the LP1 which states that 'A The Council will support renewable and other energy developments and ancillary buildings or infrastructure subject to the following considerations:

- i. that the environmental effects of the proposal have been appropriately considered and schemes will not give rise to unacceptable impacts on landscape or townscape character, ecology, the historic environment or cultural heritage assets.
- ii. that proposals will not give rise to unacceptable impacts on local amenity, or give rise to safety concerns, as a result of noise, shadow flicker, electromagnetic interference, emissions to the air or ground, odour or traffic generation and congestion.'

Following on from the above are paragraphs 152-158 and 174 of the NPPF and related NPPG – Renewable and low carbon energy paragraph 013.

Paragraph 158 of the NPPF states 'When determining planning applications for renewable and low carbon development, local planning authorities should:

- a. not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b. approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.'

The Planning Policy Guidance on Renewable and Low Carbon Energy states that:

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

In respect of the above considerations a development of 9.53ha could be considered, as with 9/2015/0688, as being unavoidable in the countryside and thus the impacts on loss of agricultural land, character, landscape, ecology and flood risk in this case require assessment in order to inform whether the development is in compliance with the aforelisted policies and guidance and also if sufficient mitigation is proposed. Noting that the site is in a rural location and would offer employment albeit of small number over the lifetime of the development for those servicing the site it could also be considered as a site of Rural Development in terms of E7 subject to highways, amenity, local character and visual impacts being considered.

It is stated that the development would generate around 9,196,00 kilowatt hours of renewable energy per year to power 2,478 homes and for a 30-year lifespan this will offset 4300 tonnes in carbon dioxide emissions. This exceeds the previously approved solar farm on this site which would have generated enough power to supply 1370 homes based on an average annual consumption of 3,300 kWh of electricity per house. Notwithstanding public comments received stating that the development is not required it must be noted there is no requirement for applicants to demonstrate the need for renewable or low carbon energy generation subject to other considerations such as the impacts being acceptable. The proposals would go a long way towards achieving both local and national targets for renewable energy and contribute to cutting greenhouse gas emissions.

The impact of the development on agricultural land

Paragraph 013 of the NPPG makes reference to 'encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value'. Paragraph 013 of the NPPG includes reference to the speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP to the solar PV industry on 25 April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015 which both include reference to where a proposal involves greenfield land the local authority should consider 'whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvement around arrays'. It is also worth stating that the Council do not have allocated areas for solar PV farms specifically within the Local Plans and as such the suitability of sites will be taken on a case by case basis based on 'only most compelling evidence' as per Government guidance. Policies BNE4 of the LP1 and SDT1 and BNE5 of the LP2 are also relevant.

Within the supporting documents it is concluded that the site comprises 74% Grade 3a and 26% Grade 3b land, which would be 9.53ha of Best and Most Versatile Agricultural land, which is clarified in the accompanying Soils and Agricultural Land and Assessment of Alternatives report. The definition of Grade 3a land is 'Land capable of consistently producing moderate to high yields of a narrow range of arable crops. The definition of Grade 3b land is 'Land capable of producing moderate yields of a narrow range of crops, principally cereals and grass'. The applicants state that the site comprises primarily arable land which is currently used for grazing constrained by its odd shape and strong hedgerows/trees boundary treatments alongside footpaths 11 and 17 and the Overhead Lines which run east-west. During site visits the odd shape of the site was noted and whilst active grazing was not witnessed, grass crop was. The supporting documents provide an assessment of alternatives including that of brownfield roof areas of surrounding buildings within a 2.45km radius and other greenfield sites. For the roof areas, which would be a priority for consideration above greenfield/agricultural placement, both were discounted as due to the size of roof space, construction and/or orientation could not accommodate the necessary equipment to generate required yield with highways infrastructure such as the A50 presenting a physical barrier, alongside a distance barrier to point of connection and the Avara private line proposed. The locality has undulating land, variable soil types and flood plains.

In the sequential assessment of sites and considerations it was also noted that other Grade 4 land was considered in the search area, but they were ruled out for this type of development and other sustainable energy generation projects due to their relationship with the flood plain, clearances required from trees/roads etc reducing available area and proximity to connections and that this combined with viability issues covering ease of dealing with a single land owner in a less constrained portion of land, concluded this site was best for development. It is proposed that during the lifespan of

the development, stated as around 30 years that the agricultural practice on the site would switch between arable to grazing with appropriate grass planted under and between the solar panel farm. To this end in practical terms it is considered that on the whole the development would not lead to significant implications on Best and Most Versatile Agricultural land, noting also that the management plan could be secured by condition to ensure upon the decommissioning of the site it is returned to the state to which it was assessed and returned back further into agricultural use. The development subject to conditions and informatives is considered to be in compliance with the listed policies and guidance.

The impact of the development on trees, hedgerows, landscape character and footpaths

The site lies within the National England, National Character Area 68 Needwood and South Derbyshire Claylands within the sub-division of Lowland Village Farmlands and Riverside Meadows. The site and the surrounding area (1-2km) is low lying land associated with the River Dove floodplain. As noted by the DCC Landscape Architect in their comments the immediate landscape 'has no particular sensitivities as defined in the Derbyshire County Council study to identify Areas of Multiple Environmental Sensitivity (AMES) and scores just above average for its tranquillity. Typically this is the landscape associated with settlement owing to its slightly elevated nature relative to the adjoining floodplain so in that regard this is a landscape where you would expect to see some development.'

The most applicable policies to consider are S1, S2, SD6, BNE1, BNE3, BNE4 and INF7 of the LP1 and SDT1, BNE5 and BNE7 of the LP2 and the Landscape and Trees SPD/guidance documents. As with the previous permission, the supporting LVIA identifies that the impact on the surrounding landscape is limited to that within 800m of the site and over time this impact would be reduced by hedging increasing to 3m in height. The nearest viewpoints benefit from an existing screen of hedging and from long distance views the proposal would be imperceptible, noting that the site appears carefully selected in that it is set away from nearby highways, tracks and roads and main points of the village of Scropton that are otherwise orientated towards the site. Thus, the cumulative impact in respect of similar developments in the area would be minimal. Therefore, due to existing screening and the sites low lying topography and that of the surrounding area, plus the enhancements to the landscaping from hedgerow gap planting and hedgerow tree planting with maintenance schedule, the proposal is not considered to have a significant impact on the landscape character of the area and as such is in compliance with the listed policies and guidance.

There are two public footpaths that traverse the site, footpath 11 through the southern part of the site and footpath 17 through the south-western part of the site and along the western boundary. The proposal is to provide paths enclosed by deer / wire mesh stock fencing of a height of 2.4 m. In this case the footpaths are not well used and the experience of users would alter for short lengths with the panels not immediately adjacent to the path. The longest section affected of FP17 would be enclosed by a fence to the east, an existing hedge to the west and would be 10m in width. The panels adjacent to the footpaths would be a suitable distance from the fencing and as such the impact on the footpaths would not be significant. The impacts on these routes are also reduced by the low-lying topography as the views of the surrounding countryside are confined due to existing hedge and tree screening. To this end subject to securing the retention of the existing and proposed landscape features and as suggested by the DCC Landscape Architect a 30- year landscape long-term management plan including for all hedgerows around the site to ensure effective screening in line with the supporting landscape plan, it is considered that the development is in compliance with the relevant policies and guidance.

In respect of trees and hedgerow protection during the construction period and beyond, noting those existing are scheduled for retention the supporting Planning/Design and Access Statement provides general details of how the root protection areas and trees/hedgerows will be protected and how the development has been placed to avoid these existing features with buffers to these to be retained moving forward. To ensure tree protection during the construction period a tree protection plan condition will be attached to any approval of the development.

The impact of the development on biodiversity

The site is agricultural with several hedgerows, trees, woodland and water bodies either within the site, at its boundaries or nearby that may offer habitat, foraging or commuting potential for various species.

To this end policies S1, S2, SD6, BNE3 and BNE4 of the LP1 and policies SDT1, BNE5 and BNE7 of the LP2 are relevant for consideration. The application is supported by various ecological assessments, landscape plans and a Biodiversity Management Plan. The application package has been enhanced in comparison to the previous permission and provides further specific detail in respect of biodiversity mitigation, enhancement and gains in a manner so as to minimise use of planning conditions should the development be rendered acceptable. This information has been reviewed by the Derbyshire Wildlife Trust who note that 'all habitats of value including an orchard and scattered trees have been retained and incorporated with the scheme and appropriate mitigation measures have been recommended to minimise impact upon notable habitats and species. The provision of suitable skylark habitat and gaps under perimeter fencing to allow movement of mammals such as badger and brown hare are particularly welcomed. Overall, we concur that the implementation of the mitigation and habitat creation/ enhancement measures recommended in the submitted Biodiversity Management Plan and shown on the Landscape Planting Plan should provide an overall net gain in biodiversity.'

In respect of leaving 500mm gaps in the fencing for biodiversity as the DWT officer notes, the Designing Out Crime officer raised concern that the gaps seem excessive and should be reduced to assist crime prevention without harming occasional wildlife transitions. Whilst this is noted, the size stipulated should be provided due to the types of wildlife in the area and that the other security efforts advanced and to be secured via condition should effectively secure the site. It is considered subject to the use of conditions and informatives that the development is in compliance with the relevant policies and guidance.

The impact of the development on highways safety

The most applicable policies to consider are S1, S2, S6, E7, SD1, SD6, BNE1 and INF2 of the LP1 and BNE5 of the LP2. Between them these policies seek that new development upholds highways safety and where intensification on the highways network is predicted either during construction or for the lifetime of the development that appropriate mitigation is suggested and implemented on site or developer contribution secured for off-site projects. It is proposed the site will be served by an access track from Scropton Road which in part already exists. The construction of this during the construction period is said will be permeable gravel and then a grass style concrete system implemented for the lifespan of the development. Several comments were received from the public raising concern about the width and visibility of the access onto Scropton Road, intensification on the highways network, the proposed route of haulage and the quality of the roads and also the impact of heavy goods vehicles on amenity, pollution and damage to the existing highways infrastructure. The County Highways Authority (CHA) were consulted on the application and raised no objection to the development subject to conditions. CHA reviewed the application including the Construction Traffic Management Plan, which includes routing options via Watery Lane and Leathersley Lane and they note that whilst they would have preferred to see HGV traffic approach from the north, it is not considered that traffic approaching from the east would be so detrimental as to justify an objection or requirement for the document to be altered, particularly as traffic generated by the site will only occur during construction. To this end they recommended conditions to cover implementation of Construction Management Plan; plant storage as per plan GSV1002-100E; wheel cleaning facilities; HGV haulage route inspections; CTMP and highways works remedial works programme submission for decommissioning. It is therefore considered subject to conditions and informatives that it is in compliance with the listed policies covering highways safety.

The impact of the development on residential amenity

Whilst the site is positioned within the countryside not immediately adjacent to Scropton village and its settlement boundaries the closest neighbouring uses comprise rural businesses and residential dwellinghouses and equestrian/agricultural uses. To this end policies S1, SD1 and SD6 of the LP1 are relevant. Lawf Farm comprises the closest residential property approximately 90m from the site, however, the existing farm buildings to the north of the property screen the development. Other dwellings and uses accessed from Scropton Road are between 130-200m from the boundary of the site. As noted in the previous officer report there is tree screening adjacent to Scropton Road which exists to the east of Lawf Farm and there is a small bund to the rear of the Gamekeeper's Cottage that serves to reduce its visual impact. However, additional tree planting is proposed to the northern, southern and western boundaries of the site where there is the potential for impacts on visual amenity.

Due to the total height of the panels and the level topography of the site, long term visual impacts are unlikely to be significant. In respect of glint and glare, the Planning Statement states that the PV “panels themselves have been designed to reflect as little light as possible in order to maximise operational efficiency and output, and have therefore been proven to have a negligible impact in terms of glint or glare”. In this case, due to the distance between the panels and the nearest residential properties, the flat nature of the site and existing screening, any glint or glare impact is not considered to be likely to be significant. In terms of noise whilst a Noise Impact Assessment did not support this application, it did support the previous permitted application. It is considered due to the distance of the various components of the scheme such as the transformers, customer cabin and various inverters from the nearest sensitive noise receptors (residential dwellings) to the south in Scropton village that noting background noise levels that subject to a condition limiting the cumulative noise generated from the fixed plant and machinery forming part of the proposals not exceeding 47dB(A) at 10m from the site boundary, to ensure that noise from the development is within acceptable levels of tolerance for nearby uses. It is considered that noise during the construction period can be controlled via condition in respect of Construction Management and hours to ensure for the limited period of construction impacts on amenity are mitigated. In respect of the CCTV equipment and the comments from the Designing Out Crime Officer a condition will be added to ensure details of the specifics of monitoring of the site in respect of crime and neighbouring amenity considerations are provided for the lifetime of the development. Subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

The impact of the development on minerals safeguarding

The site is noted as being located within a sand and gravel minerals safeguarding area. The most applicable policies to consider are S2, SD5 and SD6 of the LP1 and the Derby and Derbyshire Minerals Plan. Policy SD5 of the LP1 states that ‘B. The Council will not permit other development proposals in mineral safeguarding areas where they might sterilise economically workable mineral deposits, except where development conforms with the criteria set out in the minerals safeguarding policy included in the Derbyshire Minerals Local Plan. C. Within South Derbyshire extensive minerals resources are located along the Trent Valley (sand and gravel and within the South Derbyshire Coalfield. The Local Plan has a key role in helping to safeguard commercially viable minerals resources and ensuring that new development does not lead to the sterilisation, or prejudice the future working of, important mineral reserves.’ Whilst it is acknowledged from County that the aforelisted plan is out of date and a new plan up to 2038 being worked on, they were approached for comment as per policy SD5 and due to its location within the Mineral Consultation Area (MCA). The MCA ensures that minerals of economic importance are safeguarded and are taken into account in the assessment of applications for non-mineral development to avoid their needless sterilisation. The DCC Minerals officer states that MP17 of the Minerals Plan reads that the minerals planning authority will resist proposals for development which would sterilise economically workable minerals deposits, except where there is considered to be an overriding need for the development and it is shown that prior extraction of the mineral cannot reasonably be undertaken or is unlikely to be practicable or environmentally acceptable. The DCC Minerals officer considers that as this would be a temporary use of the land and that the panels could be removed that it is unlikely that it would lead to the permanent sterilisation of the sand and gravel resource as the sand and gravel would still be available once the development has been removed. They also note the site has not been put forward or identified as being required for extraction of these materials within the period of the new emerging Minerals Plan to 2038. The DCC Minerals Officer therefore does not raise objection to the development on this basis and therefore the development is in compliance with the listed policies and guidance in respect of minerals safeguarding.

The impact of the development on designated heritage assets and archaeology

The most applicable policies to consider are S1, SD6 and BNE2 of the LP1 and BNE5 and BNE10 of the LP2. The closest designated heritage assets to the site edged red are Grade II The Old Hall, Grade II Lychgate and Churchyard walls to Church of St Paul, Grade II Church of St Paul and its cross. Given the set back nature of the site plus existing natural landscaping and that planned it is not considered due to the distance from the assets and the available screening that any impacts on them or their significance would result from the proposed development.

The site is also located within an area of archaeological potential and as such this and the previous

application were supported by archaeological assessments. The assessments note that from geophysical surveys that there is potential for presence of below ground archaeological features of probably prehistoric origin and that these features were focused in the western area of the site. The Derbyshire County Council Archaeologist has reviewed this and the previous application. The Archaeology officer notes that previous advice issued was and that this western area be subject of no dig construction during the erection of the panels and that if this was not possible that this area of the site be the subject of archaeological field evaluation and recording by means of an appropriate scheme of works. The Archaeology officer commented that the current proposals indicate that the archaeologically sensitive area on the west of the site is to be the focus of an access track, construction compound and security fencing and that these works involved in all of which could damage or destroy any archaeological remains in that area. To this end the Archaeology Officer recommends that this area is subject of archaeological field evaluation (trial trenching) and subsequent recording depending on the results of the trenching, executed through the use of suitable prior to commencement style planning conditions and relevant informatives.

The impact of the development on East Midlands Airport operations

The most applicable policies to consider are S2, SD6 and INF5 of the LP1. INF5 seeks to ensure that new development does not detrimentally impact the safe operations of East Midlands Airport range of service including physical airport and flight path areas. Whilst the site is approximately 24km from the physical edge of the airport grounds it is within a flight path approach area and as such PV/Solar panels do have the potential to cause issues for glint and glare for pilots operating aircraft. In addition the biodiversity and additional landscaping may also encourage bird life that could also hamper safe operations of aircraft. To this end East Midlands Airport were approached for comment and consider that for this renewable energy project within 30km of the aerodrome safeguarding zone that they have no objection to the development subject to informatives in respect of crane/tall equipment licencing by informative only. The development is considered to be in compliance with the relevant policies and guidance in respect of airport operations.

The impact of the development on flood risk and water management

This site lies within Flood Zone 3 of the Flood Map for planning (Rivers and Sea), an area with a high risk of flooding if it were not protected by the Lower Dove Flood risk management Scheme completed in 2013. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1. A perimeter swale is proposed in relation to surface water flooding and the Lead Local Flood Authority have no objections subject to conditions. The LLFA consider the conditions they request are required to ensure adequate flood risk and water management of the site noting the historical and ongoing flood risk in Scropton and that to ensure any excess runoff resulting from the development will be managed within the site with the information to be submitted to include design calculations for the swales and existing watercourse that borders the site. Therefore, subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

Conclusion:

It is considered that the proposals are in accordance with the development plan and the advice in the NPPF and NPPG as the evidence has sufficiently justified that in the case of the use of agricultural land, the selected site is of poorer quality. It is also considered that the development would assist in sustainable energy generation goals as listed in policy at local and national level and attribute somewhat to addressing the climate change emergency. It is considered that whilst the site is large scale and would present a different aesthetic to relatively flat arable agricultural fields that in the wider sense of landscape character and visual effects, due to the screened nature of the site by existing landscaping including hedgerows and trees set for retention, landforms and buildings plus the landscaping enhancements proposed and the general siting away from prominent viewpoints, that the impact of the development on these matters would not be significant. The landscaping planned plus other enhancements alongside maintenance is considered would result in net gains subject to their implementation as per Biodiversity Management Plan and detailed landscaping proposals by planning condition. It is considered that safe access to the site both during construction and the lifetime management of the development can be achieved and that there would only be a limited nominal intensified use of the surrounding highways network restricted predominantly to the construction period, therefore, as such, the development is considered to be in compliance with highways policies and

guidance. In addition subject to conditions and informatives it is considered that the development would not increase flood risk to the wider area. 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. It is therefore recommended that the application is approved 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

-GM10971-002 Site Location Plan Rev A as received by the Local Planning Authority on 18th March 2021.

-GM10971-010 Site Location Plan Rev A as received by the Local Planning Authority on 18th March 2021.

-GM10971-014 Existing Site Layout Rev A with Topographical Information as received by the Local Planning Authority on 18th March 2021.

-GM10971-020 Fence Details Rev A as received by the Local Planning Authority on 22nd February 2021.

-GM10971-021 Gate Detail Rev A as received by the Local Planning Authority on 22nd February 2021.

-GM10971-023 Substation DNO and Solar Park Rev A as received by the Local Planning Authority on 22nd February 2021.

-PV Layout GSV1002-100 Rev E as received by the Local Planning Authority on 6th July 2021.

-CCTV GSS100A_001 as received by the Local Planning Authority on 22nd February 2021.

-20ft Substation Details GSV1002-202 as received by the Local Planning Authority on 6th July 2021.

-40ft Substation Details GSV1002-203 as received by the Local Planning Authority on 6th July 2021.

-Customer Cabin Details GSV1002-201 as received by the Local Planning Authority on 6th July 2021.

-Inverter details as attached to the appendices of the Wardell Armstrong letter dated 6th July 2021 IJP/GM10971/LET-006 as received by the Local Planning Authority on 6th July 2021.

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

3. The development hereby approved shall be implemented as per the methodology as stipulated within the Dust Action Plan GM10971 REP-002 Version 0.2 dated February 2021 as received by the Local Planning Authority on 22nd February 2021, unless as otherwise agreed first by submission for approval in writing to the Local Planning Authority on a prior to execution basis.

Reason: In the interests of pollution control and amenity protection during the construction period of the development.

4. During the construction period of the development hereby approved, the details for routing HGV vehicles, deliveries, site access, manoeuvring and signage contained in the Construction Traffic Management Plan GM10971 010 V1.0 dated February 2021 as received by the Local Planning Authority on 22nd February 2021 shall be adhered to, unless as otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of highways safety, residential amenity and pollution control.

5. Prior to any other works commencing on site, a site compound shall be provided for the storage of plant and materials, site accommodation, parking and manoeuvring of site operatives' and visitors' vehicles, located in accordance with drawing GSV1002-100 PV Layout Rev E as received by the Local Planning Authority on 6th July 2021. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period. Upon completion of the development and prior to its first use the temporary construction compound shall be removed and the area made good.

Reason: In the interests of highways safety, pollution control, visual amenity, landscape character and amenity protection during the construction period of the development hereby approved.

6. No construction or related activity shall take place on the site outside the following hours: 0800 to 1800 Monday to Friday; 0800 to 1300 on Saturdays; and at no time on Sundays or Bank Holidays with the exception of work needed during an emergency.

Reason: In the interests of residential amenity protection during the construction period of the development.

7. Throughout the construction period of development hereby approved vehicle wheel cleaning facilities shall be provided and retained within the site within the Temporary Construction Compound as shown on drawing GSV1002-100 Rev E PV Layout and as stated within the Construction Traffic Management Plan February 2021 GM10971 010 V1.0 as received by the Local Planning Authority on 6th July 2021 and 22nd February 2021 respectively. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highways safety, pollution control and amenity protection during the construction period of the development.

8. Prior to the commencement of the development hereby approved, the condition of the HGV/haulage routes shall be inspected and recorded by representatives of the applicant and the Highway Authority and, within 28 days of the completion of the works, details of the remedial works shall be submitted to and approved in writing by the Local Planning Authority. The approved reinstatement works shall be carried out within 3 months of the completion of the works.

Reason: In the interests of highways safety.

9. Prior to any works commencing in relation to the decommissioning of the site, a Construction Traffic Management Plan, site access, routing and remedial works program shall be submitted to and approved in writing by the Local Planning Authority and implemented throughout the decommissioning period.

Reason: In the interests of highways safety, pollution control and residential amenity during the decommissioning period of the development.

10. Prior to the commencement of the development hereby approved, construction details of the temporary track(s) used for the construction period of the development shall be submitted to and approved by the Local Planning Authority in writing. The details shall include no dig solutions where proposed in the vicinity of root protection areas of trees and hedgerows or as otherwise advised due to archaeological remains. The approved temporary track(s) shall be implemented

on site in accordance with the approved details on a prior to erection of solar panels and associated equipment basis.

Reason: In the interests of highways safety during the construction period of the development hereby approved.

11. Prior to the first use of the development hereby approved for the generation of electricity the construction details of the maintenance track as shown on drawing GSV1002-100 Rev E PV Layout as received by the Local Planning Authority on 6th July 2021 shall be submitted to and approved in writing by the Local Planning Authority. The details shall include no dig solutions where proposed in the vicinity of root protection areas of trees and hedgerows or as otherwise advised due to archaeological remains. The maintenance track details shall be implemented on site on a prior to first use of the development basis and maintained in good working order for the lifetime of the development thereafter in accordance with the approved details.

Reason: In the interests of highways safety, visual amenity and tree/hedgerow protection.

12. Prior to the commencement of the development hereby approved details of the diversion of and safe management of the public rights of way (even if not being diverted) running through the site during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Information boards should be provided at suitable points at the entrance and sections of the PROWs crossing the site in respect of the proposed development for its construction period with details of this also submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of preservation of the public rights of way and in the interests of public safety during the construction period of the development.

13. The development hereby approved is granted for a limited period only, expiring 30 years after the date on which electricity is first generated by the installation, on or before which date the solar panel arrays and associated buildings, structures, tracks, infrastructure, gates and fencing shall be removed and the site reinstated to the satisfaction of the Local Planning Authority as per its former agricultural use state unless, prior to that date, permission has been granted for an extended period pursuant to an application made to the Local Planning Authority in that regard. The solar panel array operator shall inform the Local Planning Authority in writing within 10 working days of the first date on which electricity is first generated.

Reason: In the interests of the visual amenities and landscape character of the rural area beyond settlement boundaries, so not to risk redundant equipment, structures, buildings and boundary treatments being left in place in perpetuity, compromising the productive use of the land and the character and appearance of the area thereafter.

14. Prior to the erection of the following elements of the development hereby approved the colour, specification and external facing finishes shall be submitted to and approved in writing by the Local Planning Authority: solar panels, module frames, fencing; gates, CCTV poles, CCTV equipment, customer cabin, transformers, inverters and substation DNO. These listed elements of the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and landscape character in a rural area.

15. Prior to the erection of any equipment part of the development hereby approved requiring pad/foundations/bases on which to be sited, details of these aspects and their construction/colour shall be submitted to and approved in writing by the Local Planning Authority. The pad/foundations/basis on which equipment shall be sited shall be implemented on site in accordance with the approved details.

Reason: In the interests of visual amenity, landscape character and archaeology.

16. Prior to the erection of any battery or other storage in relation to excess energy generation or balancing of electrical grid in respect of the development hereby approved, details of this shall be

submitted to and approved in writing by the Local Planning Authority. The battery or other storage shall be implemented on site in accordance with approved details and maintained in good working order for the lifetime of the development thereafter.

Reason: In the interests of residential amenity, visual amenity, pollution control and landscape character.

17. Prior to the commencement of the development hereby approved the proposed ground and finished floor levels shall be submitted to the Local Planning Authority for approval in writing. The topographical levels for the development shall be implemented on site as per the approved details.

Reason: In the interests of visual amenity and landscape character in a rural area.

18. Following the construction period of the development the noise levels from inverters, fixed plant and machinery forming part of the development hereby approved shall not exceed 47 dB(A) at 10 metres from the site boundaries.

Reason: In the interests of residential amenity.

19. Prior to the erection of any sources of external lighting associated with the development hereby approved (including during the construction period) details shall be submitted of their specification, dimensions, siting and colour to the Local Planning Authority for approval in writing. The external lighting scheme shall be implemented on site in accordance with the approved details and maintained in good working order thereafter. If a lighting scheme is approved solely for the construction period this shall be removed prior to the first use of the development hereby approved.

Reason: In the interests of visual amenity, landscape character and nature conservation in a rural area.

20. Prior to the installation of any solar panel modules forming part of the development hereby approved, details of the CCTV active monitoring provision shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details on a prior to first use of the development basis. The monitoring as mentioned within the Planning Design and Access Statement should be expanded upon.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions to promote the well-being of the area and to reflect local and national planning policies on secure design and crime prevention in new developments.

21. Prior to the commencement of the development hereby approved a Written Scheme of Investigation for archaeological work shall be submitted to and approved by the local planning authority in writing. No development shall take place 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.

Reason: In the interests of archaeology and designated heritage asset protection, conservation and recording.

22. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 21.

Reason: In the interests of archaeology and designated heritage asset protection, conservation and recording.

23. The development hereby approved 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 21 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of archaeology and designated heritage asset protection, conservation and recording.

24. Prior to the commencement of the development hereby approved a tree protection scheme that follows on from the information provided in the supporting Planning Design and Access Statement shall be submitted to and approved by the Local Authority in writing. The scheme shall include details of the fencing/protection scheme and its siting. The approved tree protection measures shall be implemented on site on a prior to commencement basis and retained in place for the duration of the construction period. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- i) there shall be no changes in ground levels;
- ii) no material or plant shall be stored;
- iii) no buildings or temporary buildings shall be erected or stationed;
- iv) no materials shall be burnt within 20 meters of any retained tree or hedgerow; and;
- v) no drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure that the retained trees and hedgerows are not harmed during the construction of the development.

25. The development hereby approved shall be implemented in accordance with the measures recommended in the Biodiversity Management Plan February 2021 GM10971 V1.0 011 as received by the Local Planning Authority on 22nd February 2021 and as shown on the Landscape Planting Plan drawing GM10971-013 Revision B as received by the Local Planning Authority on 2nd August 2021.

Reason: In the interests of landscape character and biodiversity protection, enhancement and net gains.

26. Prior to the first use of the development hereby approved an updated Landscaping Plan shall be submitted to and approved by the Local Planning Authority. The updated drawing shall be based on the Landscape Planting Plan Figure 9 GM10971-013 Revision B as received by the Local Planning Authority on 2nd August 2021 and shall provide further information as to where the planting noted on the plan will be specifically sited and relevant spacing, details of the connections at the boundaries and through the site for public rights of way, ie. gates/ stiles etc. and details/siting of information boards along the perimeter fencing of the public rights of way. The approved landscaping plan details shall be implemented on site in accordance with the approved details in the first planting and seeding seasons following the first use of the development or the completion of the development, whichever is the sooner and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of landscape character, promoting healthy lifestyles and visual amenity in a rural area.

27. Prior to the first use of the development hereby approved a landscape management plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives to cover the lifespan of the development of 30 years, management responsibilities (including contact details and means of informing the Local Planning Authority of any change to those details) and maintenance schedules for all landscape areas to include long term maintenance of hedgerow and tree screening both as existing and as proposed. Where relevant, the maintenance schedules shall include means to annually review the condition of any hard surfaces, fixed equipment or furniture (including public information boards), and replace/upgrade those surfaces, equipment and furniture on a rolling programme. The landscape management plan shall be carried out as approved.

Reason: In the interest of the visual setting of the development and the landscape character and visual amenity surrounding area over the lifetime of the development.

28. Prior to the commencement of the development hereby approved a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. GS Vogt Limited Hawthorn Farm Solar Farm Flood Risk Assessment GM10971-0008 Version 1.0 February 2021 and drawing GM10971-018 Rev B Surface Water Management Plan 2nd August 2021. Figure 9 LANDSCAPE PLANTING PLAN. GM10971-013 Revision B 30th July 2021, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team such as the agents email dated 7th July 2021.
 - b. and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),
- shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage for the development shall be executed on site on a prior to first use basis in adherence to the approved details.

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

29. Prior to the commencement of the development hereby approved a detailed assessment shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

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

30. Prior to commencement of the development, details shall be submitted for approval in writing to the Local Planning Authority which demonstrate how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any construction works.

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

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

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

32. The open land within the curtilage of the site shall not be used for storage of any form or nature.

Reason: In the interests of the visual amenities of the area and the openness of the land in a rural area.

Informatives:

- a. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- b. Foston and Scropton Public Footpaths 11 and 17 must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
- c. The required phases of archaeological recording of the site outlined in the conditions attached to this decision notice, are in line with the requirements of the NPPF which requires developers to record and advance understanding of the significance of any heritage assets which are to be lost to development.

The fieldwork should be conducted by a suitably qualified archaeological consultancy (ie a CIFA registered organisation), to a written scheme of investigation to be agreed with ourselves. It is strongly recommended that the developer commissions the archaeological recording scheme soon after any grant of outline permission. It is vital that sufficient time is allowed to complete all the required phases of recording prior to the commencement of any ground preparation or building of the scheme.

- d. Due to the historical and ongoing flood risk in Scropton, in order to recommend discharge of the above conditions, the LLFA will need to be sure that any excess runoff resulting from the development will be managed within the site. Detailed design calculations will need to be provided for the proposed swales and the existing watercourse which borders the site.
- e. Please refer to the informatives from the Lead Local Flood Authority as per the feedback given on 27th July 2021.
- f. Due to the location of this development within the operational and safeguarding zone of East Midlands Airport a crane or tall equipment licence may be required from the Civil Aviation Authority on a prior to commencement basis, separate to planning.

Item No. 1.3

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

Valid date: 15/06/2021

Applicant: M Berwick

Agent: Turner & Co. Consulting Ltd

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

Ward: Linton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Dan Pegg as local concern has been expressed about a particular issue. *It was deferred from December committee for a site visit.*

Site Description

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

The proposal

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

Applicant's supporting information

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

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

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



Relevant planning history

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

Responses to consultations and publicity

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

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

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

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

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

Natural England has no comments to make on this application.

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

Linton Parish Council have no objection to this application.

Derby and South Derbyshire Ramblers object to the proposal as no consideration has been given to the diversion of Linton Footpath 14. The application must show how and where Footpath 14 had been diverted, alternatively the layout is re-designed to accommodate Footpath 14 on its existing line.

One objection has been received, raising the following comments:

- a) Privacy and quiet enjoyment of neighbouring home and garden are being further threatened.
- b) Concerns of overlooking into neighbouring garden.
- c) When considering the additional conversion of the existing bungalow into a two storey house, in effect this would become another mini housing estate.
- d) Concern raised over the scale of development as it will be an intrusion into the countryside by

changing the nature of a housing plot right on the edge of the village.

e) Concerns over the impact the proposed development would have on any future housing development proposals on the edge of the village.

f) Concerned that approval would add weight to any future proposals to intrude further into the countryside, and make it more difficult for the Council to reject such proposals.

g) Question whether it should be acceptable and appropriate for the site of a single bungalow, albeit with a reasonably-sized garden, but right on the edge of the village (and which currently very clearly identifies the transition from the built-up village to the countryside), to be developed to the scale proposed?

h) Important to preserve the green spaces which residential gardens provide within a community - the open aspect of the neighbourhood? The National Planning Policy Framework 2012 (paragraph 53) certainly emphasises this point when it said that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens.

i) Objections over loss of privacy and degree of overlooking which this development will bring about for neighbouring property. Two of these houses will be built a few metres from the boundary and the rear elevation of these houses will look directly into the neighbouring garden, particularly at first-floor level.

j) Understood that there is a right to quiet and private enjoyment of garden - this will most certainly be compromised should this development be permitted.

k) SDDC's Design Guidance (Nov 17 BNE1) says that 'new development should not have an undue adverse effect on the privacy and amenity of existing nearby residents or occupiers'.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

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

Planning assessment

Principle of Development

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

Design and Visual Impact

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

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

In relation to impacts on the street scene, the site is clearly visible from the public realm, with clear views into the front of the site available along Cauldwell Road. The proposed layout shows that the development would form a curved line of four dwellings all fronting the highway and utilising the same access off Cauldwell Road, with vehicle parking provided at the front of each dwelling. The dwellings are to be set back into the site from the highway edge, with plot 3 being the closest dwelling to the highway with a separation distance of 10m. The building line and separation from the highway is in accordance with the existing built form along Cauldwell Road to the east. The surrounding dwellings along Cauldwell Road to the east are similar in character and design, being mostly two storey dwellings which sit centrally on good sized plots with off street parking provision at the front, with roof types being grey tiled box gables and built from red bricks.

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

Neighbouring Amenity

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

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

The proposal would therefore comply with the minimum distance requirements as set out in the SPD when measured against all of the neighbouring dwellings that surround the site as detailed above. As such, it is considered that the proposed dwellings would not demonstrably impact the residential amenities of neighbouring properties that surround the site and future occupiers within the site and therefore the proposal is considered to be compliant with Policies SD1, BNE1 and the minimum distances as set out in the SPD.

Highway Safety

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

The proposal includes off street parking provision for each of the three new dwellings, with two spaces provided at the front of each dwelling and an additional space in the form of integral garages. Whilst the proposal includes the demolition of an existing double garage at the front of the existing bungalow, which is to be retained and extended, a new double garage is proposed at the front of this dwelling. The proposed layout shows that sufficient space can be provided within the site to ensure adequate parking and manoeuvring for at least two vehicles for all of the proposed dwellings and the existing dwelling which is therefore compliant with the parking guidance as set out in the Design Guide SPD, thereby minimising the risk that residents would park on Cauldwell Road. Vehicle movements generated by the proposal are unlikely to have a noticeably negative impact on the capacity of the wider highway network, with the proposal being within the settlement boundary and within an existing

built up residential area. It is noted that the County Highway Authority have assessed the proposal from a highway safety perspective and have raised no objections to the proposal, subject to conditions. As such the access and parking proposed is considered suitable to facilitate three new dwellings on the site and would not adversely impact on highway safety to a point where it would reasonably justify refusal of the application. As such, the proposal complies with the requirements of Policy INF2 and the provisions of the NPPF.

Biodiversity

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

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

Other Issues

As referenced in the site description, there is a public right of way (Footpath No.14 - Linton Parish) which runs along the entire eastern boundary of the site and along part of the southern boundary and provides pedestrian access from Cauldwell Road to the newly built housing site at the rear of the site. The impact the development would have on this footpath has been raised in a number of the consultation responses. The correct alignment of the footpath (according to the county mapping system), passes through the site, although based on historic satellite images, it would appear that the footpath has not passed through the site for many years, if ever. Both the County Rights of Way Officer and the Highway Authority have raised no objections in regards to the impact on the footpath, but do require that the footpath is formally realigned so that it does not pass through the site. In order to ensure this is carried out, a condition would be attached to any consent granted.

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

Recommendation

Approve subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

12. Prior to the first occupation of any new dwelling, a recharge point for electric vehicles shall be provided at a ratio of 1 charging point per dwelling with dedicated on plot parking. Individual charging points shall be provided with an IP65 rated domestic socket 13amp socket directly wired to the consumer unit with 32 amp cable to an appropriate RCD, located where it can later be changed to a 32amp EVCP. Shared charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. Alternative provision to the above specification must be first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point(s) shall be provided in accordance with the stated criteria and approved details prior to the first occupation of the respective dwelling and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

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

Reason: To safeguard the amenities of nearby occupiers.

14. Each new dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations

(2015). The developer must inform the building control body that this optional requirement applies.

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

Informatives:

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

Item No. 1.4

Ref. No. [DMPA/2021/1220](#)

Valid date: 24/08/2021

Applicant: Gavin & Lia Haywood & Copestake **Agent:** JMI Planning

Proposal: **Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the erection of three dwellings at 38, Hall Lane, Willington, Derby, DE65 6DR**

Ward: Willington and Findern

Reason for committee determination

This item is presented to the Committee at the request of Councillor Andy MacPherson as local concern has been expressed about the proposal.

Site Description

The application is within the village of Willington and comprises an undeveloped area of semi-natural grassland with hedgerows and trees along its boundaries (particularly the northern and southern boundaries). It is currently grazed by a small herd of sheep. The site is approximately 0.3 hectares and is rectangular in shape. The land is relatively flat, although it falls away slightly southwards from the northern boundary of Hall Lane. Along the frontage are four mature lime trees that are an important feature of the street scene of Hall Lane as they form part of a longer avenue of trees. The site is beyond the formal grounds of the former Willington Hall, although the lack of development suggests it may once have been within the same ownership, or a smallholding plot associated with cottages to the south. The site is surrounded by other residential development including modern development opposite and adjacent to the eastern boundary in the form of a 1970/1980s house. There is a private access road along the western boundary which services properties to the west and south of the site.

The proposal

The proposal is for outline planning permission for up to three new dwellings including a private access driveway along the eastern boundary of the site. The driveway would create a new access on to Hall Lane. An indicative masterplan has been submitted, but all matters except for access are reserved.

Applicant's supporting information

The Planning Statement seeks to demonstrate that the proposal is in accordance with local and national policy; would not impact on the amenity of the area; and reflects the design and principle of similar developments in the area.

The Flood Risk Assessment acknowledges that the site lies within flood zone 2 and that mitigation measures are to be incorporated into the design of the dwellings.

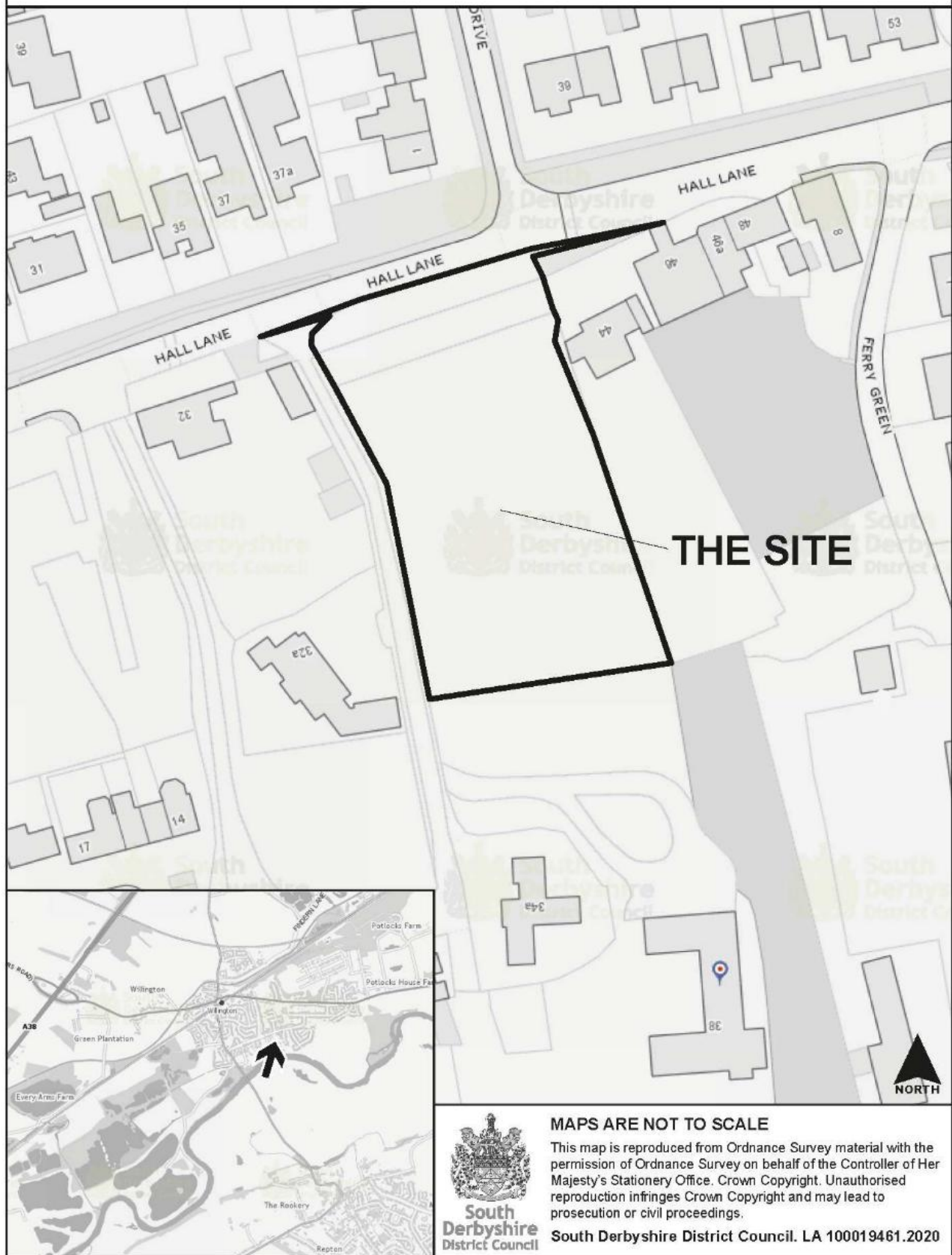
The Tree Report surveys all of the trees on site, and suggests a schedule for removal of certain trees, and retention of those deemed to have a higher ecological and visual amenity value.

The Preliminary Ecological Appraisal found that the proposed development would not result in harm to protected species or their habitats.

Relevant planning history

No relevant planning history.

DMPA/2021/1220 - 38 Hall Lane, Willington, Derby DE65 6DR



Responses to consultations and publicity

Environmental Health have no concerns.

County Highway Authority consider that the proposed access can achieve appropriate emerging visibility splays in both directions on to Hall Lane. There is also sufficient space to construct access to the recommended minimum width for a development of up to 5 dwellings.

Derbyshire Wildlife Trust recommended that the western boundary hedgerow be retained as part of the reserved matters layout, and that conditions relating to nesting birds and biodiversity net gain be imposed. No objection was made to the proposal.

Environment Agency referred to national flood risk standing advice relevant to the proposal being located within Flood Zone 2.

Severn Trent Water stated that Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered. No surface water to enter the foul water system by any means. 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.

Conservation Officer made comments due to the proximity of the proposal to listed building 48 Hall Lane. They were satisfied that the nature of the proposal would not harm the significance of the listed building via its setting as is described as a 'desirable' objective within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It was considered that the listed building already sits in a setting dominated by mid-late 20th Century development and most of its ancillary buildings have been lost and replaced by housing development to the east and a detached house to its west, and therefore this proposal would not result in any cumulative adverse impact upon the special significance of the listed building via its setting.

Tree Officer regarded the Tree Report as extending beyond the advice needed for outline consent, but that the details are factual and useful should the development progress to full planning permission. Comments that there are a few small trees within that will require removal to facilitate development; that the submitted BS 5837 Report has categorised all trees, including those outside development ownership (Material Considerations) as Cat C1 which he considers to be a reasonable assessment; that the site frontage is highly important regarding appearance, and it is a shame that the line of Lime trees were pollarded. Notwithstanding this, these trees are in full public view, will regrow and should be maintained as 'pollards'. The impact of the development on these trees is low; The removal of trees and groups within the site (T0821, 00822, 0823, 0825, 0826, 0827, 0828, 0829) and three groups (Group 01, Group 02, Group 03) to facilitate development is acceptable as they offer low value regarding public amenity; Tree T0837 a third-party mature Horse Chestnut located on the eastern boundary is in poor condition, and requires significant work regarding its safety should the development proposal be consented and does not warrant a TPO; Future pressure for removal of trees can be reasonably foreseen in relation to the proposal, and there are few concerns regarding liveability, i.e. future shading from trees along the southern border. A recommendation was made to TPO five Lime Trees on Hall Lane, as well as the best quality trees along the southern border of the site to avoid unnecessary pruning post development.

Local residents/Neighbours - four letters of objection were received from neighbouring properties and the concerns have been summarised below:

- a) A site notice was not posted.

- b) The development of this site would see the loss of open green space, when there are very few areas of green space in the area. This green space is considered to be a particular feature of the locality, providing a semi rural appearance in this area of Hall Lane near Willington Hall. The area was considered by South Derbyshire District Council to be a Local Green Space.
- c) The site is at risk of flooding, and drainage in the area is poor, which causes risk to properties and the historic part of the village. The applicant has not undertaken a Sequential Test, and if a Sequential Test were to be passed, the applicant must demonstrate that an exception can be made.
- d) Hall Lane sees vehicles drive at high speeds, especially from commercial vehicles who are less affected by the speed bumps and use Hall Lane to avoid the low bridge in Willington. There is concern that an additional access will cause a highway safety risk. An appeal was dismissed in 2004 at land off Ferry Green for highway safety reasons.
- e) The proposed new access road would effectively create a crossroads with Old Hall Drive which can be busy with school traffic and children walking to and from school. There is a bus stop close to this junction for John Port school pupils
- f) Hall Lane is often narrowed by parked cars when parents are dropping off and picking up school children, and some houses do not have off street parking available.
- g) Vehicles regularly use Hall Lane as a shortcut to avoid the centre of the village which is always busy and during peak periods can cause long delays due to congestion.
- h) Hall Lane is also used by drivers of large vehicles to avoid the two low bridges in centre of the village.
- i) In the past drivers often exceeded the speed limit and traffic calming was introduced, however lorries and large vehicles are not slowed by these measures.
- j) I would suggest that any potential traffic survey should be undertaken during the school term not school holidays.
- k) A recent house building development on Hall Lane has resulted in construction vehicles being parked opposite the Oaks Road junction. This has created hazardous driving conditions due to lack of clear visibility that I would not like to be repeated on any future development should it be allowed.
- l) The mature trees are an asset to this street and I would not like to see any trees being removed to facilitate building applications. Most of the mature limes have abundant epicormic growth which often blocks the pavement, causing pedestrians to walk along the road and an obstacle to driving vision.
- m) The proposal will cause threat to the large Chestnut tree in the garden of no. 44 Hall Lane.
- n) There is not enough sewer capacity.
- o) This development would see the over-development of Willington that has a significant history.
- p) The indicative layout plan would see large dwellings and areas of hardstanding that would be unacceptably harmful to the area, which would conflict with Local Plan policy BNE1 and NPPF paragraph 130. Large dwellings would also have a dominant impact on the surrounding properties.
- q) The indicative layout plan would lead to dwellings being built in close proximity to number 44 Hall Lane and result in a significant loss of privacy, not meeting distance guidelines.
- r) The proposed driveway would cause a noise disturbance to the occupants of 44 Hall Lane.
- s) I am very concerned about the layout of the properties as my home looks out across that field. It's important that my home doesn't look directly into the properties and vice versa. The other thing for me to consider is the level of build. If they were high end detached properties in a small gated enclave this would enhance my immediate location and I would be supportive of the plans. If not then I would take an opposing view.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy); SD2 (Flood Risk); BNE1 (Design Excellence); BNE3 (Biodiversity); INF2 (Sustainable Transport).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD) 2017

The relevant national policy and guidance is:

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

Planning considerations

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

- The principle of development of the site for the erection of up to three dwellings;
- The effect of the proposal on the residential amenity of nearby occupiers;
- The effect of the proposal on the highway network;
- The effect of the proposal on flood risk;
- The effect of the proposal on the environment.

Planning assessment

This outline application is for the erection of three dwellings with all matters reserved except for access. Whilst the masterplan layout presented is illustrative, it is likely that the development will be implemented as proposed subject to detailed design development.

The principle of development of the site for the erection of up to three dwellings

The proposed site lies within the settlement of Willington, as defined in Local Plan Part 2 Policy SDT1 (Settlement Boundaries and Development). Local Plan Part 1 Policy H1 defines Willington as a Key Service Village and states that "development of all sizes within the settlement boundaries will be considered appropriate". The principle of residential development is therefore acceptable in this location providing it meets the requirements of other Local and National policies.

The effect of the proposal on the residential amenity of nearby occupiers

Policy BNE1 (Design Excellence) states that "all new development will be expected to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life by adhering to the design principles". Neighbour objections included comments relating to the loss of green space and the scale of the dwellings proposed. Whilst the objection to the loss of green space is understandable, the land is not protected by planning policy or a designation, and therefore does not receive special status worthy of protection. The details of the design of dwellings are not matters considered by this application, however, it is acknowledged that the dwellings are proposed to be two-storey detached market dwellings. The neighbouring properties are also fairly substantial two-storey detached market dwellings, and therefore the proposal would be in keeping with the precedent set in the immediate locality.

An objection has been raised in relation to loss of amenity due to overlooking at the neighbouring property no. 44 Hall Lane. The indicative site plan shows the proposed dwelling to be 13.8m from no. 44 Hall Lane which has west facing windows on the side elevation from a playroom/dining room. These are however secondary windows on a secondary elevation and therefore the minimum distances as set out in the adopted Design Guide SPD do not apply. Notwithstanding this, the application is in outline form only and based on the information provided, it is considered that the dwellings could be sited so

as not to be of any significant detriment to the amenity of the occupants of neighbouring properties such as to warrant a refusal of planning permission.

The effect of the proposal on the highway network

County Highways Authority consider that the access can achieve appropriate emerging visibility splays in both directions on to Hall Lane, and there is sufficient space to construct the access to the recommended minimum width for a development of up to five dwellings. It is noted that the access has been proposed in a location that will retain the four lime trees on the frontage of the site, and the protection of these trees will be managed through conditions due to their positive contribution to the street scene. Neighbour objections state that Hall Lane sees cars exceeding the speed limit, however the County Highway Authority have not objected to the application on these grounds. An appeal at 'Land off Ferry Green, Willington' was quoted in support of this objection, however, this application (9/2003/0703) was refused on the grounds that visibility at the Hall Lane/Ferry Green junction is substandard in terms of visibility to the left, and that the proposal would result in the additional use of the junction which would be detrimental to highway safety. This is not considered to be the case at the site subject to this application and therefore the proposal is deemed to be acceptable in highway terms, and in accordance with Local Plan Part 1 policy INF2 (Sustainable Transport).

The effect of the proposal on flood risk

In line with paragraphs 159, 161 and 162 of the NPPF, Local Plan Part 1 Policy SD2 (Flood Risk) states, "When considering development proposals in South Derbyshire, the Council will follow a sequential test approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding. The development of sites with a higher risk of flooding will only be considered where essential for regeneration or where development provides wider sustainability benefits to the community that outweigh flood risk."

A Flood Risk Assessment was submitted by the applicant, which stated (para 3.1 of FRA dated 28 July 2021) that a sequential test was required in line with the Environment Agency's standing advice and National Planning Practice Guidance 'Flood risk and coastal change'. The NPPG classes dwellings as 'more vulnerable' and states that "the aim [sequential tests] is to steer new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the exception test if required".

A sequential test was not submitted by the applicant, and therefore a test has been undertaken by the Council with a local search area of Willington, Repton and Findern in line with the Council's approach to similar applications. Although a site for seven bungalows was recently approved at Planning Committee in Repton (DMPA/2020/0808), it was considered that this proposal could not constitute a reasonable alternative due to the permission being limited to single storey dwellings only for design and heritage purposes, which would not meet the criteria of this proposal for two-storey dwellings. It is therefore considered that the Sequential Test is passed. The Exception Test is not required given the vulnerability classification of the development and the level of flood risk within the site.

The Flood Risk Assessment has been prepared in accordance with guidance 'Preparing a flood risk assessment: standing advice' 2021. The FRA states that mitigation measures will be incorporated into the design of the development including finished floor levels set at 0.6m above the modelled 1% AEP (annual exceedance probability) plus climate change design flood level. Similar mitigation measures have been implemented on other developments in Willington. The FRA states that the access to Hall Lane is outside of the 1% AEP plus climate change design event, and therefore that a safe dry access is available. Whilst all of the site lies within Flood Zone 2, it is evident on site that the land rises towards Hall Lane, and therefore the applicant is advised to carefully consider the layout of the proposal with this in mind.

The effect of the proposal on the environment

A Preliminary Ecological Assessment was submitted by the applicant and considered by Derbyshire Wildlife Trust, who have requested that the western boundary hedgerow is retained as part of the reserved matters layout and that conditions are imposed to protect nesting birds and require a scheme

of biodiversity enhancement.

A comprehensive Tree Survey was also submitted as part of the application, and it is acknowledged that a number of trees are intended to be retained on site. The four lime trees along the frontage are considered to be an important feature in the street scene as they form part of a longer avenue of trees along Hall Lane, and their protection will be required.

A concern has been raised regarding the mature horse chestnut tree on the boundary of the site and no. 44 Hall Lane (the trunk is within garden of no. 44) in that the tree will become damaged by the development and cause a hazard. The indicative site plan shows that no built development is intended to be located adjacent to the tree and it is considered that root protection measures can be implemented to safeguard the tree.

Other matters

An objection was raised from a local resident in terms of sewer capacity, however Severn Trent Water were consulted on the application and they did not object. Connection to the foul sewer is a matter between the applicant and Severn Trent Water.

An objection was raised that a site notice was not posted by the application site. Site notices are not normally posted on applications that are in accordance with Local Plan policy and where neighbours have been consulted. The correct consultees including the Parish Council and the elected member were consulted in line with the Statement of Community Involvement (2018).

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

Recommendation

Approve subject to the following conditions:

1. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard
 - (a) appearance,
 - (b) landscaping,
 - (c) layout, and
 - (d) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The development hereby permitted shall be carried out in accordance with drawing ref. 'Proposed Access Plan 10/08/21' unless as otherwise required by condition attached to this permission or

following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

4. Prior to any other works being commenced, excluding site clearance, the new access shall be formed to Hall Lane, be laid out in accordance with the approved plans and constructed in accordance with the County Council's specification as a splayed vehicular crossover of 2.4m x 4.3m visibility splays in both directions with the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

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

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

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts.

6. The development shall be implemented in accordance with the submitted BS5837 Tree Report dated 21 July 2021 with any protective and/or precautionary measures installed/implemented prior to the commencement of the development.

Reason: To ensure the protection of trees in the interests of amenity and habitat protection.

7. As part of the reserved matters, a scheme of biodiversity enhancement to include, as a minimum, features incorporated within the new buildings for roosting bats and native planting within the details of landscaping shall be submitted to and approved in writing by the Local Planning Authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

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

8. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) dated 28 July 2021 / Version 1.0, in particular in accordance the following mitigation measures detailed within the FRA:
 - (a) finished floor levels should be set to 300mm Above Ordnance Datum (AOD) providing a minimum of 600mm freeboard against a 1:100 year plus climate change flood level event, as detailed in Section 4.1.1; and
 - (b) the use of flood resilient construction methods, as detailed in Section 4.1.3.

Reason: To reduce the risk from flooding to the proposed development and its future occupants.

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

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

10. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:
- 1 charging point per dwelling with dedicated on plot parking, or 1 charging point per 10 spaces (or part thereof) where the dwelling(s) are served by courtyard or roadside parking;
- Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be first submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority.
- The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation of the dwellings and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

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

Informatives:

- a. 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.
- b. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered. No surface water to enter the foul water system by any means.

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 Developer Services Team (Tel: 0800 707 6600).

Item No. 1.5

Ref. No. [DMPA/2021/1475](#)

Valid date: 24/09/2021

Applicant: Karen Brenchley

Agent: Elisabeth Hackett

Proposal: The erection of a replacement porch at 79 Main Street, Kings Newton, Derby, DE73 8BX

Ward: Melbourne

Reason for committee determination

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

Site Description

The application site is located within the rural village and conservation area of Kings Newton and the property has been identified as a building that makes a positive contribution to the character and appearance of the conservation area. The application property is a modest cottage with attached barns, possibly once associated with Cofton fronting onto Trent Lane. The 1880's OS map shows Cofton as the nearest sizable house and whilst part of the range of buildings on site has a cottage character, this feels more likely to have been a workers cottage with attached barn ranges rather than a farmhouse in its own rights.

The proposal

The application seeks planning permission for the erection of a replacement porch. The existing porch which is to be removed is below the cubic metre threshold to require consent to be sought for relevant demolition in a conservation area.

The current proposal formed part of a previously refused application (DMPA/2020/1393) where the reasons for refusal all related to other matters which no longer form part of the development now proposed.

Applicant's supporting information

A Design and Access Statement has been submitted which includes up-to-date photographs of the host building and its existing porch and which covers the following:

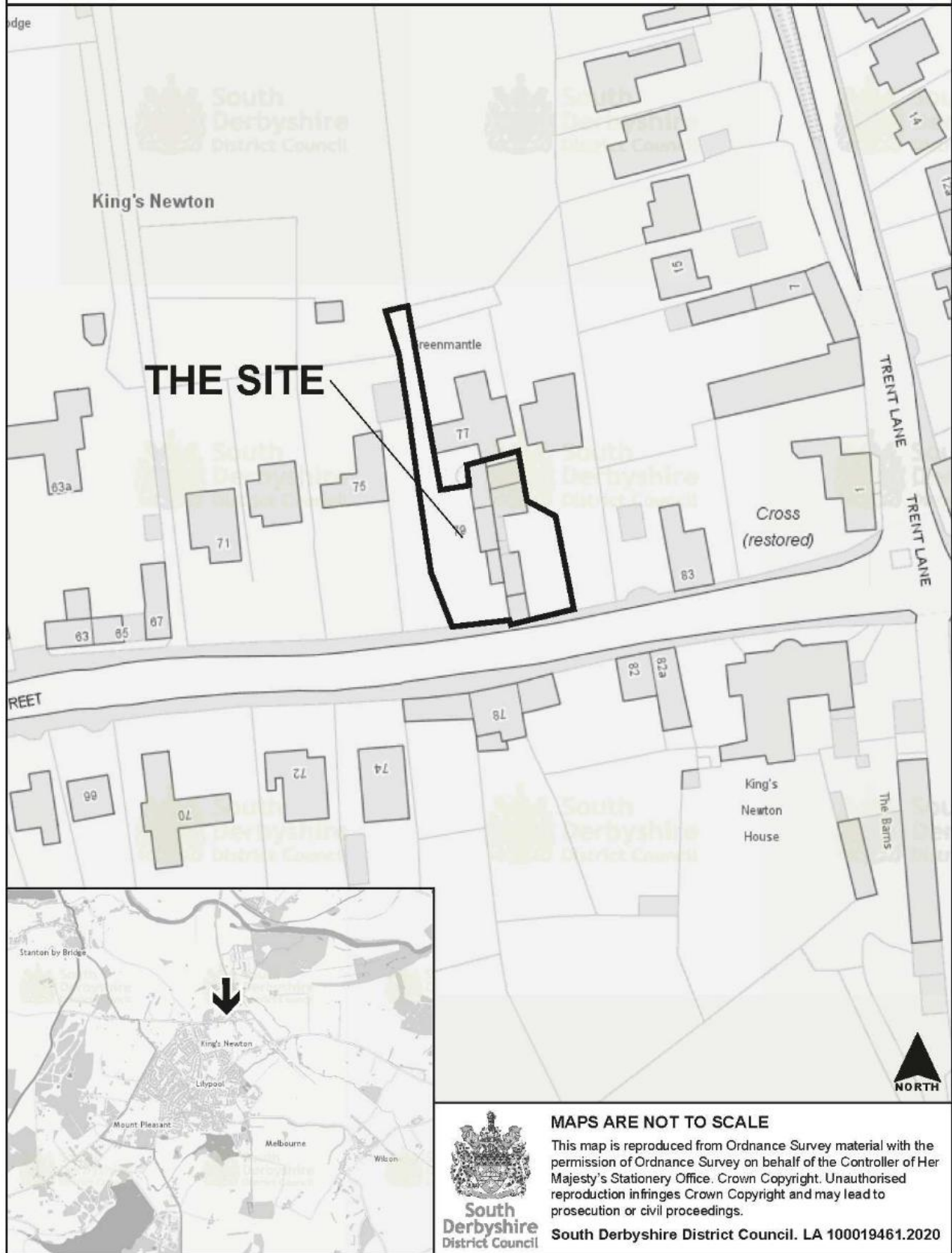
79 Main Street sits within the Kings Newton conservation area and is positioned on the north side of Main Street. The property was a former Farm Workers' Cottage and has barns adjoining which have been converted for residential use. There is also an old bake house joining the garage which sits against the roadside. The property is of a linear form sitting perpendicular to Main Street. It has been altered over the years with new additions and a raised roof and the original parts date back to the early 19th Century.

The area outside the front of the property is used for parking and there are no proposed alterations to the current parking allocation. This proposal is for the removal of an open porch and its replacement with an enclosed porch. New ground coverings will also be associated and rights of way will be retained.

Access

The access to the property through the existing opening within the stone walls fronting Main Street will be retained as existing. This opening into the driveway of the application property is used by other

DMPA/2021/1475 - 79 Main Street, Kings Newton, Derby DE73 8BX



homeowners and should only be used by No. 79 although No. 77 has right of way over. This said there is no privacy for the property, with views off Main Street and the other properties having access onto the front of No. 79.

Layout

The layout of the property will not be altered. The proposal does see a new entrance made into the property through an existing window opening and this is the only part of the façade fabric to be removed. The new entrance will allow the homeowners to arrive into the property without the need to come off the courtyard directly into the dining room. This has posed problems from a thermal and overlooking point of view with access being straight into a habitable room.

The layout of the proposed enclosed porch is simple and is designed to edge the boundary line of the car parking for No. 77. Windows have been proposed within the roof slope to the north elevation to prevent overlooking and to create privacy. The entrance is adjacent to the road and allows people to arrive, take off their coats and shoes and move through a covered space into a new arrival space within an existing corridor allowing easy movement through the rest of the house.

Privacy and creating a sense of arrival is required as this property lacks these key attributes and with these in place the home will have a sense of security and sanctuary. It is important for your wellbeing to feel you have arrived home.

Scale and appearance

The proposed porch entrance was developed through a series of sketches and ideas to create a covered entrance without harm to the existing fabric, making reference to the historical context. The design also creates privacy and a sense of boundary between No. 79 and its neighbours. Several discussions have taken place with the Planners as part of the process from inception through to the submission of an application.

The design and scale of the proposal has been led by the constraints of the site (boundary lines, the existing internal layout and the location of the new entrance) as well as being mindful of the existing context with gables and the vernacular architecture. The massing of stone/brick facades has been reduced to make reference and not mask the existing timbers found within the front (west) façade of the double storey element. The gabled timber framed porch structure adjacent to Main Street (south elevation) reflects the existing later addition porch which is part of the character of the conservation area as mentioned in the Kings Newton Conservation Area Character Statement. The use of brick and stone are reflective of the existing materials found on the host building and the design makes reference to the gables found on a collection of properties within this area (No.77 for example) and the perpendicular massing off the linear axis is typical and not a new idea.

The proposed addition remains subservient and sympathetic to the historical context as well as addressing recent additions which have added to the charm, appearance, and growth of the conservation area.

Landscaping

This remains neutral and reflective of the context and the street scene. The stone walls fronting Main Street will remain as existing. The hardstanding to the ground will be gravel, the type is yet to be confirmed.

Summary

This proposal can be welcomed as an improvement and a need, which will not only enhance the living environment for the occupiers but will also preserve the building for many more years to come. The proposal will be another layer to the historical fabric without harm to the conservation area.

Relevant planning history

DMPA/2020/1393 – The demolition of open porch and replacement with enclosed porch and the erection of new entrance gates and wall in part and new boundary wall with associated landscaping – Householder planning permission was refused on 6th July 2021 by Planning Committee contrary to the case officer's recommendation:

The proposed boundary wall within the open courtyard of this former farm complex would introduce a built form to subdivide and erode an important feature of the historic settlement pattern within the area, to the detriment of the overall character and appearance of the Kings Newton Conservation Area. The development would therefore be contrary to Policy BNE2 of the Local Plan Part 1 and Policies H27 and BNE10 of the Local Plan Part 2 and there are no reasons which would justify taking a decision at variance to these policies.

DMPN/2021/1474 - Certificate of Lawfulness for proposed boundary walls to define boundary - pending consideration.

Responses to consultations and publicity

The Conservation Officer is of the opinion that, subject to the imposition of conditions for facing and roofing materials, the proposed development would not harm the character and appearance of the conservation area. A sample stonework panel condition should also be imposed to ensure that the work is undertaken to a good standard.

Melbourne Parish Council have raised no objections.

Melbourne Civic Society strongly objects to the proposal and comments that the extension proposal will neither preserve nor enhance the conservation area. Like so many other vernacular buildings, the house comprises an uncomplicated sequence of one-room-deep elements placed end-to-end, giving it an appropriately simple and linear character. This proposal awkwardly bridges the junction between the single storey and two storey parts, with a porch squeezed at right angles to it, to face the road, and the roof form has to include a couple of awkward valley gutters because it is unnatural.

The Melbourne Ward Member comments as follows:

This application together with application DMPA/2021/1474 for a Certificate of Lawfulness for proposed boundary walls are in essence two of the three key elements of a previous application DMPA/2020/1393 which was previously rejected by the planning committee.

I respect that the applications have been made separately but residents have asked many questions of me as to how what is in many ways the same requests for building permission be brought back so quickly to the council after it has only recently been refused.

Plans – Size and Scale

A neighbour to the property has had their own work conducted by a surveyor who believes the plans are inaccurate and not to scale. In particular, cars drawn on the plans are reduced by 15% in scale based on UK average and hence turning circles and true access are not demonstrated fairly.

Two walls from No. 77 are not shown at all on the plans and if the extension is built as is, the two car parking spaces for No. 77 will be entirely inaccessible. This is a very serious concern for the elderly resident of no 77.

The neighbours' surveyors work has also highlighted that access for emergency and service vehicles can be no more than 2.85m wide when a recognised minimum standard is 3.2m.

As stated on the previous application there is also a significant dispute over the boundary with No. 75 and that neighbour believes they have the evidence to show a different boundary which they claim

makes the plans submitted inaccurate.

Conservation Area

Other residents have expressed their concerns that the scale of the porch and how it would significantly protrude into the open courtyard would spoil the conservation characteristics of this open courtyard.

The proposed significant intrusion into the courtyard space will neither preserve or enhance the conservation area and that in our own SDDC conservation documentation we specifically draw attention to the conservation of linear, L and U-shaped courtyards.

Residents with better historical knowledge of the area believe “that this proposal will be detrimental to the character and appearance of the conservation area. The main reason is that no.75 and the adjacent farmyard are complementary parts of a historic farmstead, and the openness of the farmyard is important to the way that it is understood and appreciated. The farmhouse now looks 1920s from the front but is in fact partly 18th century. By way of background, Nos. 75 to 79 are an ancient farmstead which had formerly belonged to the Kings Newton Hall estate. It was bought out by the Melbourne Estate in 1734, and they owned it until 1919. The house now known as No. 79 was in existence as a cottage within the farmstead by 1767.”

Porch

The sheer scale and position of the porch will have a major impact on the neighbour at No. 75. There could be real loss of privacy with roof windows overlooking into the kitchen and living room of No 77. I also believe the proximity to No 77 will have a detrimental effect on the loss of light. These matters are of course on top of the potential loss of two car parking spaces which will become inaccessible as mentioned above.

There have been eight objections from members of the public and seven objections from neighbours (12 individuals in total) as a result of publicity and these are as follows:

- a) The proposed changes to the porch will be huge and not only block light but restrict access to and isolate occupant of 77 Main Street - view will be of a plain, bland wall, and sloping roof;
- b) This proposed structure is totally out of keeping and will not only destroy the integrity of this yard but the whole of the surrounding conservation area;
- c) Emergency vehicles will also have problems accessing no 77;
- d) Should the owner require an increase in living space that is as big as this, should consider building at the back of the house where there is plenty of room;
- e) There are so few ancient yards like this and it is a travesty to consider building a huge extension which affects all the other residents in an adverse way;
- f) As a regular visitor, aware of how Main Street is used as a cut through for speeding vehicles. This development has the potential to create yet another health and safety issue with the residents of No. 77 who will have no adequate turning for vehicles and consequently be forced into reversing out onto the highway. There have been a number of accidents reported on this stretch of Main Street and believe this development has the potential to create further risks to pedestrians and vehicles alike;
- g) A lack of actual measurements have made this plan very difficult to read;
- h) Proposed plans are misleadingly named - not an erection of a replacement porch, it is an extension, adding a complete habitable room, 600% larger in area, than the current porch;
- i) This constitutes a built structure in a conservation area that inappropriately encroaches on a rare, horseshoe shaped farm yard which has been preserved for over 300 years;
- j) The style of the new structure is totally out of keeping with the existing cottage to which it will be attached;
- k) The proposed plans (North, South Elevations and Elevation 2) reveal the true impact on the owner of No. 77;
- l) The extension in its proposed form, will create a new wall 3.3m in width, resulting in No. 77 no longer being visible from the road;
- m) Due to inaccuracies in the proposed plans, such as excluding two walls attached to No.77 and No.79 and scaling the vehicles 15% less than the UK average size, No. 77 will effectively lose access to one of the two allocated parking places. This will mean that family members and visitors to No. 77 will no longer be able to park at no. 77;

- n) Due to inaccuracies in the proposed plans and by not referring to the recent RICS Land Survey undertaken by No.75; the Land Registries and Title Deeds for all three properties; and solicitor's advice, the true area represented for vehicle access, turning and manoeuvring is false;
- o) The driveway area represented on the proposed plans is of much smaller scale in reality;
- p) The boundary line between No.75 and No.77's properties is inaccurate;
- q) An Independent RICS Land Survey undertaken on 25/07/21 demonstrates that the proposed plans will have to conform to the professionally marked out boundary line, resulting in a much smaller access width (2.8m) and a much reduced vehicle turning and manoeuvrability area;
- r) The applicant has said that it is their intention to erect a fence dividing the courtyard. When following the surveyed boundary's accurate measurements and the resultant line of the fence, the access and turning area will be even more compromised than shown;
- s) It is understood that boundaries are not normally taken into consideration, however, in this instance, they are critically relevant because it is not acceptable that field access for agricultural vehicles and visitors to the property of No.77, must cross the surveyed boundary line of No.75;
- t) Sir Nikolaus Pevsner, author of *The Buildings of England, Derbyshire* (1953), declared that Kings Newton has 'one of the most attractive main streets in Derbyshire.' The open character of the yard is a large part of the positive contribution it makes to the special qualities of the conservation area. It is still 'legible' as a former farmyard, and the Council's adopted conservation area appraisal draws particular attention to the ranges of old farm buildings and their courtyards as a defining characteristic of the village. If their legibility is impaired, then their contribution to the conservation area will inevitably be impaired also;
- u) In this case, the farm is an ancient one that had belonged to the Hardinge estate based at Kings Newton Hall, which was bought out by the Melbourne Estate in 1734. The Melbourne Estate retained the ownership of it until 1919. By 1767, there was a separate cottage among the outbuildings, which is now no. 79. The main farmhouse (formerly 'The Orchard'), now no. 75, is outside the conservation area, having the appearance of a 1920s house, but in fact part of the earlier farmhouse is incorporated within it. The conservation area boundary therefore makes a rather artificial distinction between the farmhouse and the yard and buildings that belonged to it. In reality, they can still be appreciated together as complementary parts of a single whole;
- v) The replacement of a small 'open' porch by a much larger enclosed room, nominally described as an enclosed 'porch', is detrimental, as it is unsympathetic to the linear form of the buildings and is of a complex and awkward form;
- w) SDDC's Kings Newton Conservation Area Character Statement (2011) specifically draws attention to "long ranges of farm buildings that survive substantially unaltered, creating linear, L and U-shaped courtyards." The courtyard is within the Conservation Area Boundary 12th July 1979;
- x) The architect's drawings are inaccurate and misleading – the low wall in front of No. 77 is not shown; the size of the cars drawn are much smaller than in reality; the boundary line between No. 79 and No. 75 is not the correct line;
- y) When the neighbour's car (larger than average size) is parked in its normal place, the gap between her car and the boundary line is below the legal requirement for another vehicle to pass on to No. 77;
- z) No. 77 have two car spaces; the new extension would not allow space for two cars to park there.
- aa) It would be impossible for tractors or other large agricultural vehicles, needing to use the courtyard to get to the field behind the properties, to get through;
- bb) The line marked on the resubmitted application has not changed and it is incorrect. The Conveyance between William Hugh Earp and John Madden on 30/10/1970 also has a Plan, copied from the Land Registry Plan. This is countersigned by William Hugh Earp and John Madden; thus, the Earp family formally created, and thereby accepted, what is shown on our Land Registry plan, when 75 Main Street was sold by them. In July/August 2000 a Register of local land charges and a Requisition for search and official certificate of Search was sent to South Derbyshire District Council by the objector's Solicitors. The same Plan was attached to the document and was stamped with the District Council's approval. HM Land Registry recent Plan (DY548115) of July 2021, matches the objector's Land Registry Plan and 1970 Conveyance line. All these clearly show a straight line from the eastern edge of No 75's garage, leading to the road; when level with the southern edge of the cottage (no. 79), the line then takes a diagonal course for the wall on Main Street. No 75 has 2.55m of that wall (nearly its entirety);
- cc) This was to ensure, if ever it was needed, enough room for a vehicle to turn in the driveway. When we arrived in 2000, there was no garage at the application site. The 'new boundary' ignores the legal

line and encroaches on the objectors land. The correct boundary, when matched with the new extension, does not allow the legal passage;

dd) Occupant of No.77 will no longer be able to turn her vehicle around, and will have to reverse the length of the drive and out onto a busy road where three accidents have recently occurred, including the day of the previous site visit for the earlier application;

ee) The modern design, including double road facing glass entrance doors and a roof skylight, are completely out of keeping with the character of this ancient farmyard;

ff) The room is being built out onto a conservation area. A planning application by the same applicant on the same site was rejected in June, due to 'a built form...' which would 'erode an important feature of the historical settlement pattern within the area, to the detriment of the overall character and appearance of the Kings Newton Conservation Area. The development would therefore be contrary to policy BNE2 of the Local Plan Part 1 and policies H27 and BNE10 of the Local Plan Part 2 and there are no reasons which would justify taking a decision at variance to these policies';

gg) It will force farm vehicles, and vehicles accessing No.77 to cross over the surveyed boundary line between No.77/79 and neighbouring No.75;

hh) It is the intention of the applicant to erect a fence on the boundary line, therefore it will be impossible for No.77 and their visitors to cross the boundary line to access both allocated parking spaces. Needs to be viewed on the ground, as everyone who has visited the site can see the issues that the plans drawn fail to represent;

ii) The 300 year old farmyard has long been admired by visitors to Kings Newton and to destroy such a rare gem with such an extension is abhorrent;

jj) There are fundamental issues and serious inaccuracies with the drawn plans which cannot be demonstrated in the standard objection format – plans and photographs provided in paper format together with comments that were also submitted online;

kk) The size and orientation of the proposed extension will impact on the ability of the applicant, other residents and visitors within the courtyard to safely access Main Street. There is a bus stop right at the entrance of the courtyard which local children use to get to the secondary school. The idea of multiple cars having to back out onto a busy road with limited visibility is dangerous - there have been four accidents on Main St since the objectors moved to the area in 2014. Children also congregating in this vicinity adds to the risk;

ll) These types of dwellings (located around a shared yard) have been deemed typical and an asset of the area (many of the new developments are emulating them). They are cited in the recently published Neighbourhood Plan as being a notable feature of both Melbourne and Kings Newton. Although the choice of materials sound excellent - the scale of the proposed porch means that sense of open space would be lost. Surely the point of a conservation area is to maintain the historic layout of the properties?;

mm) Own two car park spaces and benefit from the legal unimpeded right-of-way from Main Street to access them;

nn) The boundary situation between 75, 77 and 79 Main Street has been established from the information provided to the Council and which is gained from legal and registered land documentation. At present there is no physical boundary on this line but it is noted that the previous application suggested a brick boundary wall and later a fence. If such a boundary were to be erected then it is clear that No. 77 would not be able to use allocated parking spaces which were gained through a planning application and approval;

oo) It is noted that No. 77's situation was not included on the applicants detailed drawings. The relationship between neighbouring buildings should be clearly shown;

pp) Any boundary in the open courtyard would be detrimental to the appearance of the conservation area, therefore any approval should be conditioned so that the open nature of this courtyard be maintained;

qq) If the boundary situation is shown correctly [on the plans submitted by an objector] it means that the red line ownership boundary on the application is incorrect and the wrong certificate has been submitted with the application. It follows that the application should not have been validated;

rr) It can be seen from the applicants submitted photographs that the existing porch complements the existing dwelling within the conservation area. The applicant's intentions and aspirations are not disputed however the proposed solution is ill considered;

ss) The extension should be subordinate to the existing dwelling. The ridgeline being below that of the existing building;

tt) The gable width is unnecessarily too large compared with existing gable widths and this in turn means that the pitch of the roof will be different to the main building, not allowing for a valley tile solution to the connection with the existing roof;

uu) The small open porch is unnecessary and is an unsightly addition to the main objective;

vv) No information has been given on the pre-application advice (question 8 on the application form) and it is wondered if the conservation officer was consulted?;

ww) The authority and the applicant should also consider that this proposal could not be constructed without access to the car parking space at No. 77 since the intention is to build the external wall on the boundary;

xx) Elevational drawings clearly show an overhanging eaves, a situation which would not be acceptable. There is no indication to what happens to roof rainwater from the existing building or from the extension;

yy) The objectives set out in the design and access statement could be achieved with a smaller more modest enclosed porch;

zz) The demolition of the existing porch is not included in title of the planning application;

aaa) Although not an original feature the existing porch compliments the cottage;

bbb) The proposed replacement is an ugly block totally unsympathetic with existing single room depth footprint;

ccc) This is not a replacement porch. Oxford dictionary definition of porch 'A covered shelter projecting in front of entrance to a building usually open at sides';

ddd) This proposal will totally destroy an historic building part of the important conservation area;

eee) The erection of this additional room will cause immediate disruption to all the residents with little gain.

fff) It will reduce the privacy of No. 77 particularly with roof windows overlooking that resident's kitchen and living areas;

ggg) The proposed design of the additional room appears to be built up to and including the existing extremity of the current two parking spaces currently occupied by No. 77 which is unacceptable. Perhaps communication with the resident of No. 77 would be appropriate;

hhh) The substance of this application has already been rejected (DPMA/2020/1393). The proposals now presented should again be refused in accordance with paragraphs 193, 194, 196 and 197 of the National Planning Policy Framework and the Council's own policies;

iii) A further strong concern is the proposed division of the yard area. Subdivision of the farmyard will neither preserve nor enhance this Conservation Area. It will result in chaos;

jjj) The requested boundary wall would allow no turning circles and without doubt impair the ability for 77 and 75 to manoeuvre and exit safely in a forward direction onto Main Street. Furthermore, the resident of 79 regularly parks her vehicle at right angles to her garage, which is seldom used thus creating a further obstacle to manoeuvre;

kkk) There seems to be confusion over the ownership of one of the protected lime trees and it should be noted that one of the two trees is in need of serious pruning which would result in better access into and from the courtyard. Alterations to the access will undoubtedly affect the trees which are the subject of a preservation order. The tree preservation officer should be consulted and a proper tree survey included;

lll) The two entrance/exit points are necessary for vehicles servicing the paddock/field beyond and is used for agricultural vehicles, this could clearly have a knock on effect to traffic on the main street should the existing access points say be reduced and/or gated;

mmm) The applicant has submitted the same proposed extension, as well as submitting a separate application for the dividing boundary wall (DMPN/2021/1474), and a further application for the gates will undoubtedly follow therefore completing the exact same planning application that was rejected in July. Underhand way of resubmitting plans which were soundly rejected by the Planning Committee (DMPA/2020/1393);

nnn) Design of the extension is completely out of keeping with the character of the existing property and its immediate environment. The proposed building design is awkward in its complex design and so is at odds with the uncomplicated, one-room deep, linear design of the existing cottage;

ooo) There are no dimensions on the application which means that the size can only be determined by reference to the scale bar. This leaves things worryingly approximate which should be deemed unacceptable due to the restricted access and manoeuvrability issues it will cause all three households on the farmyard;

ppp) The North Elevation on the proposed plans shows the extension wall built on the actual boundary line and fronting the dining room and kitchen windows of No. 77. This will have a hugely negative impact on the owner. The loss of the 'right to light' and the loss of 'public visual amenity' should also be carefully considered;

qqq) If permission is granted to build the new structure on the scale provided, the owners at No.77 will lose access to two owned parking spaces due to the access angle and the loss of turning area that the extension and boundary wall will ultimately create. A development cannot be approved if that means that someone loses the ability to access the parking spaces they own and

rrr) Simply closing in the existing porch would give the applicant privacy and reduce thermal loss and would not have such a detrimental impact on a conservation area, or negatively impact the neighbours;

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets)

2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Kings Newton Conservation Area Character Statement 2011 (CACS)

The relevant national policy and guidance is:

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

Planning considerations

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

- The impact on the character and appearance of the conservation area;
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area; and
- Other issues raised through consultation and publicity.

Planning assessment

The impact on the character and appearance of the conservation area

The property is a modest cottage with attached barns and is visible from the public realm via the driveway with 75 and 77 Main Street. The existing open porch projection is just visible from Main Street attached to a range of buildings which tend to sit along slightly different building lines. The proposal is to remove the existing open porch and construct a front projecting gabled extension to act as an enclosed porch, with a small lean-to open porch alongside in a similar position to the existing. The existing oak framed porch is potentially quite recent as it does not appear on any historic maps. However, it is a lightweight and small projection so may have been omitted. The masonry providing some enclosure around its base is certainly not of any great age unless it has been largely rebuilt at some point (although it is reasonably well executed). The 1901 OS mapping does show an enclosure fronting the range in this location, it is unhatched so was not a solid structure but may have been a small enclosed walled area or possibly an open canopy covering, but still represented some projection into the yard area.

The proposed extension would be modest in scale with the same eaves and ridge height as the

converted agricultural range which forms part of the dwelling to the north of the existing porch. The proposed materials include stonework in the lower sections and matching brick above with slate for the roof.

Subject to the conditions requested by the Conservation Officer, the proposal would preserve, and thus not harm, the special architectural and historic character and appearance of the conservation area, achieving the desirable objective within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such the proposal would conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP2 in that the heritage asset would not be harmed and the positive contribution that the host property makes to the historic environment would be preserved.

The impact on the living conditions of the adjoining properties and the general character and appearance of the area

The proposed replacement porch would be single storey and classed as a non-habitable room. The proposed roof would rise away from the neighbour to the north (77 Main Street) and its eaves and ridge would be no higher than the existing single storey range to which it would be attached. It would also present a blank elevation towards the frontage of No. 77 and the proposed rooflight would have a cill height of 2.89m such that a direct view of No.77 would not be afforded. As such, it is considered that this neighbour would not be adversely affected by the proposal and the current privacy levels would be maintained in line with the Council's SPD.

There would be adequate separation between the west side of the proposed porch extension, where window openings are proposed, and the frontage of 75 Main Street to the west side of the site to meet SPD guidelines and to preserve current privacy levels in line with the Council's SPD.

The application property is perpendicular to the existing highway and the proposed sympathetic and in scale porch would be set back within the site such that it would not adversely affect the existing street scene or the general character of the area.

The proposal would therefore be considered to be in accordance with the requirements of NPPF and with the objectives of Policy BNE1 of the LP1 and Policy H27 of the LP2 in that the development would be in keeping with the scale and character of the existing host and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

Other issues raised through consultation and publicity

Comments in relation to the boundary wall that would divide the site and the issues raised regarding the proposed alterations to the front boundary wall and existing access and the impact on the protected trees and highway safety are not of relevance to the current assessment as these elements of the previously refused application [DMPA/2020/1393] have been removed from the current proposal. Planning permission is only sought for the erection of a new porch.

It should also be noted that the previous refusal reason did not include any reference to the porch proposal or the proposed alterations to the existing front wall and the access onto Main Street. Application DMPA/2020/1393 was refused on the basis that the proposed internal boundary wall would have a detrimental impact on the historic courtyard layout of a former farm complex. The porch now proposed is as per the previously submitted DMPA/2020/1393 proposal.

The size of the proposed development is also irrelevant unless it does not comply with national and local policies and established supplementary planning guidance and the applicant is at liberty to erect an extension on any land that is within their ownership subject to gaining planning permission where it is required. The LPA can only assess what is presented as part of a planning application.

The structure has been named after its proposed function/use and whilst it could be argued that it is large for a "porch", that would be its intended use according to the application form – an arrival space to take off outside footwear and outerwear before entering the main house. The proposed extension

would be classed as a non-habitable space with regard to assessing its impact on neighbouring amenities.

The Conservation Officer was consulted on both the previous application and this current one and also provided pre-application advice. No objections were raised with regard to the proposed porch in both consultation responses as it was considered that the development would not have any harmful impacts on the character and appearance of the conservation area.

An objector raised concerns as there appears to be a slight overhang across the application site boundary on the elevation drawing (310.02C). There is no overhang from the extension on to the neighbour's land. The Party Wall Act provides the necessary framework for preventing and resolving disputes in relation to party wall, boundary walls and excavations near neighbouring buildings which are all civil matters.

The alleged inaccurate ownership boundary line between 75 and 77 Main Street would not be classed as a material consideration. This would be a civil matter between the parties involved and is covered by other legislation/guidance.

The submitted plans are considered to be accurate. An average family car is 4.3m (l) by 1.82 m (w) and the measurements on plan are slightly smaller at 3.9m x 1.6m. This small discrepancy does not alter the fact that there is ample space to accommodate a correctly scaled car within the space depicted for the neighbour's parking spaces on the submitted plan 310.02C and that the existing space behind those parking spaces would not be impacted upon by the current proposal for a porch.

The proposal would conform to Policy SD1 of the LP1 in that it is considered it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents received on 24th September 2021 and plan ref. 310.03 Revision B, received 20th December; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

3. Prior to their incorporation into the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: In the visual interest of the building, the significance of the heritage assets and the surrounding area.

4. Prior to any pointing commencing, a sample panel of pointed stonework no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

Item No. 1.6

Ref. No. [DMPA/2021/1264](#)

Valid date: 19/11/2021

Applicant: Martin Reid

Proposal: The creation of three public parking spaces from land utilised as amenity open space at Land between No 37 Linton Road and Bass's Crescent, Castle Gresley, Swadlincote, DE11 9HW

Ward: Linton

Reason for committee determination

The land is owned by South Derbyshire District Council and therefore the item cannot be delegated to Officers for decision.

Site Description

The land is situated to the north side of the commercial block of retail units and flats above to the south of Bass's Crescent. It is a roughly triangular piece of mown grass with no redeeming or notable features. There is a car park to the rear for residents, and staff within the shops, and provides some space for deliveries of goods, etc to the units.

It is clear that there has historically been some parking across the kerb on Bass's Crescent on the grassed area, and at the site visit there were two vehicles parked partly on this space. There is a small retaining wall at the front as the shops are at a slightly lower level. There is a public footpath which runs from Linton Road round the side of the building and runs to the south leading to Arthur Street.

The proposal

The proposal is to remove part of the existing grassed area immediately adjacent to the existing access to the existing car park, and provide an area of hard standing for an additional three car parking spaces to add to the available spaces for users of the existing car park to the rear of the commercial units and flats. The spaces would be surfaced in tarmac and edged with a typical kerb detail. There would be drainage provided to ensure there is no surface water run off, other than into the main drains. This is yet to be detailed.

Applicant's supporting information

The application has been made as the Council has installed some electric charging points within the existing car park to the rear of the commercial units and flats on Linton Road. This has resulted in the loss of some spaces for those residents and customers. These spaces effectively replace those lost for the public and residents.

Relevant planning history

No relevant planning history.

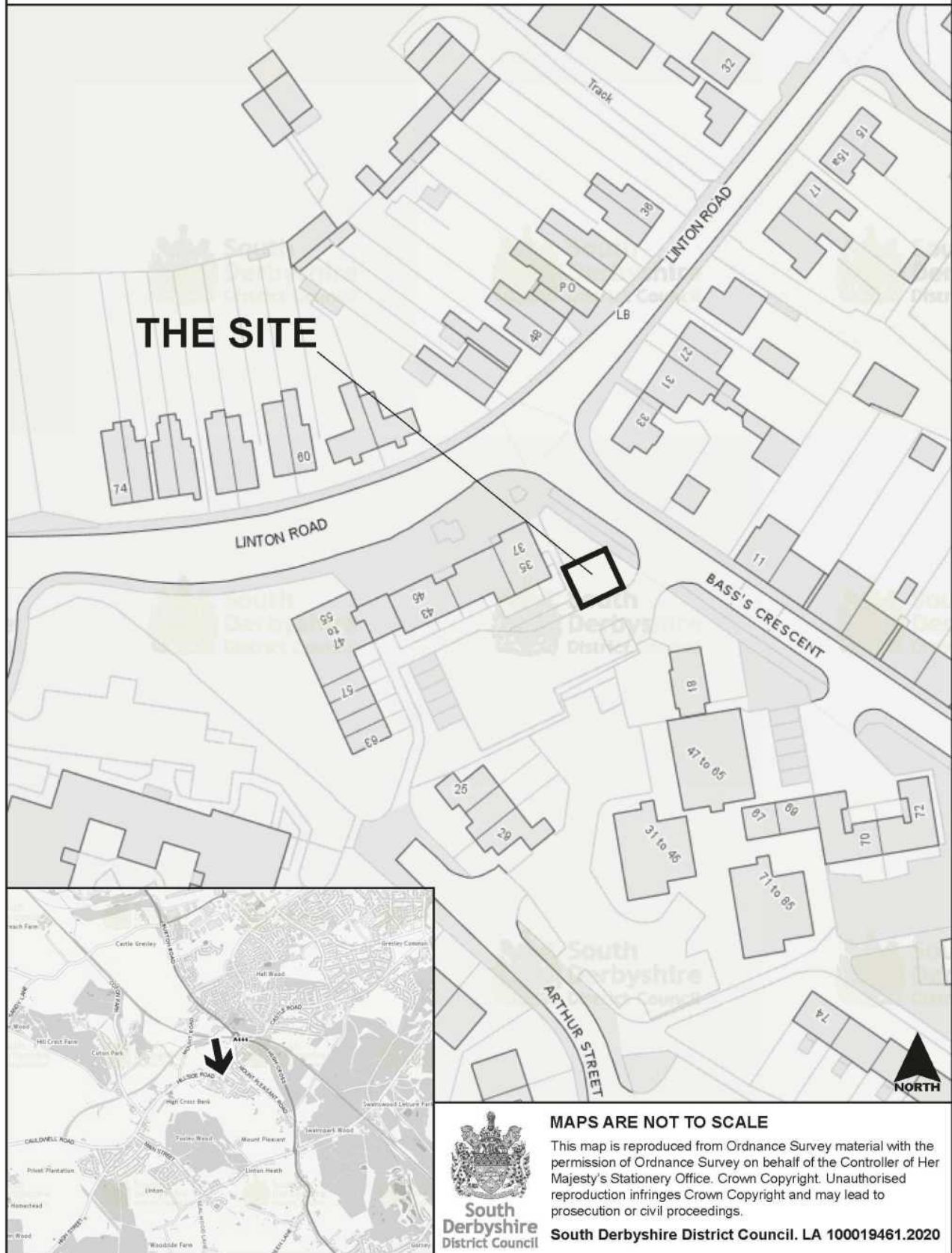
Responses to consultations and publicity

The [County Highway Authority](#) has no objection to the proposal.

The [Landscape Architect](#) has requested some additional planting with three native trees, to enhance the existing grassed area which is currently bare.

No other responses have been received.

**DMPA/2021/1264 - Land between No. 37 Linton Road and Bass's Crescent,
Castle Gresley, Swadlincote DE11 9HW**



Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 2016 (LP1): Policy S1 Sustainable Growth Strategy; Policy S2 Presumption in Favour of Sustainable Development; Policy S6 Sustainable Access; Policy SD1 Amenity and Environmental Quality; Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy BNE1 Design Excellence; Policy INF2 Sustainable Transport and Policy INF9 Open Space, Sport and Recreation.

South Derbyshire Local Plan Part 2 2017 (LP2): SDT1 Settlement Boundaries and Development.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on the highway network.

Planning assessment

The effect of the proposal on the character and appearance of the area

The proposal would result in the loss of some of the existing public open amenity space in the vicinity of the site. This would result in some detrimental impact from the loss of seeing green space in a localised area which is quite urban. The size of the open space however means that its use is relatively limited and there is no evidence of it being used in terms of play, or public enjoyment. It does seem to be used at times for some overflow car parking with evidence of worn grass and vans parking over the pavement possibly due to lack of other parking spaces in the vicinity. The site is reasonably bare.

It has been identified that there is a strategic demand for additional spaces to assist in the area with off road parking. Although on the face of it, this would seem contrary to policy S6 which encourages a move away from use by the private car, there does seem to be a desire to seek a greater provision of off road parking for nearby residents and customers, based on local concerns regarding the provision of the electric charging points. Although the proposals may have a minor negative impact with regard to sustainable transport movements and encouraging a move away from the private car, this is considered to be outweighed by the identified desire and local need for more parking spaces.

The loss of open space is noted. Policy INF9 of the South Derbyshire Local Plan 2016 covers the assessment of proposals where informal open space is to be lost. Whilst there is a lack of informal open space within the area, it is considered that there are exceptional local circumstances in this instance which would allow for the strategic loss of some of this green space in the locality. It is considered that there would be some biodiversity improvements to the area with the provision of three additional native tree specimens within the remaining area of green space. These can be secured through the imposition of a condition. This would help reduce the visual impact of the increase in tarmacked space, and also help to reduce CO2 levels in the vicinity.

It is therefore concluded that, on balance, whilst there would be some conflict with policies S6 and INF9 of the South Derbyshire Local Plan Part 1 2016, the desire for the spaces meets the Council's strategic desire to provide additional public car parking spaces. The proposal therefore complies with other policies S1, S2, and BNE1 of the South Derbyshire Local Plan Part 1 2016.

The effect of the proposal on the highway network

The three car parking spaces are 5.5m in depth with some additional space to the rear, so this would be adequate to accommodate three cars. The main access from the car park onto Bass's Crescent would not be altered. It is considered appropriate that cars could exit the three spaces and leave in a forward gear.

It is concluded that the proposal would comply with policy INF2 of the South Derbyshire Local Plan and paragraphs 110, 111 and 112 of the NPPF.

Conclusions

It is concluded that the proposals are acceptable and it is recommended that planning permission be granted subject to the imposition of appropriate 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/documents ref;

Location Plan received 10th August 2021;
Block Plan received 22nd November 2021; and
supplementary emails received 14th December 2021.

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

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

3. Prior to the occupation of the car parking spaces, a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. This shall include the provision of three native tree specimens. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the spaces; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the local planning authority gives written consent to any variation.

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

4. No laying of services, or creation of hard surfaces shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in conformity with the approved details prior to the first use of the spaces served by the surface water drainage system.

Reason: To ensure that the site can be satisfactorily drained.

Item No. 1.7

Ref. No. [DMPA/2021/0668](#)

Valid date: 23/04/2021

Applicant: R Amir

Agent: Edward Jones Architecture Services

Proposal: Change of use from dwellinghouse (use class C3) to care home (use class C2) at 4 Padstow Close, Stenson Fields, Derby, DE24 3LH

Ward: Stenson

Reason for committee determination

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

Site Description

No. 4 Padstow Close is a large, six bedroom, detached property. The rear garden is enclosed by timber fencing, where the front is open plan with hardstanding available for two cars to park. There is an integral garage which can also accommodate one further vehicle.

Padstow Close is a residential cul-de-sac located within Stenson Fields with access to local amenities.

The proposal

This application seeks to change the use of the residential dwelling (Class C3) to a children's care home (Class C2) for five children.

Applicant's supporting information

A Planning Statement was received as part of the planning application submission on 22 April 2021. However, the information contained within this was brief. A more detailed Planning Statement was requested and received on 26 May 2021. This second statement was amended on 9 December 2021 to clarify how many staff would be present within the home at any one time and also the parking arrangements.

Relevant planning history

2005/0810 - Erection of extension - Approved 30/08/2005.

Responses to consultations and publicity

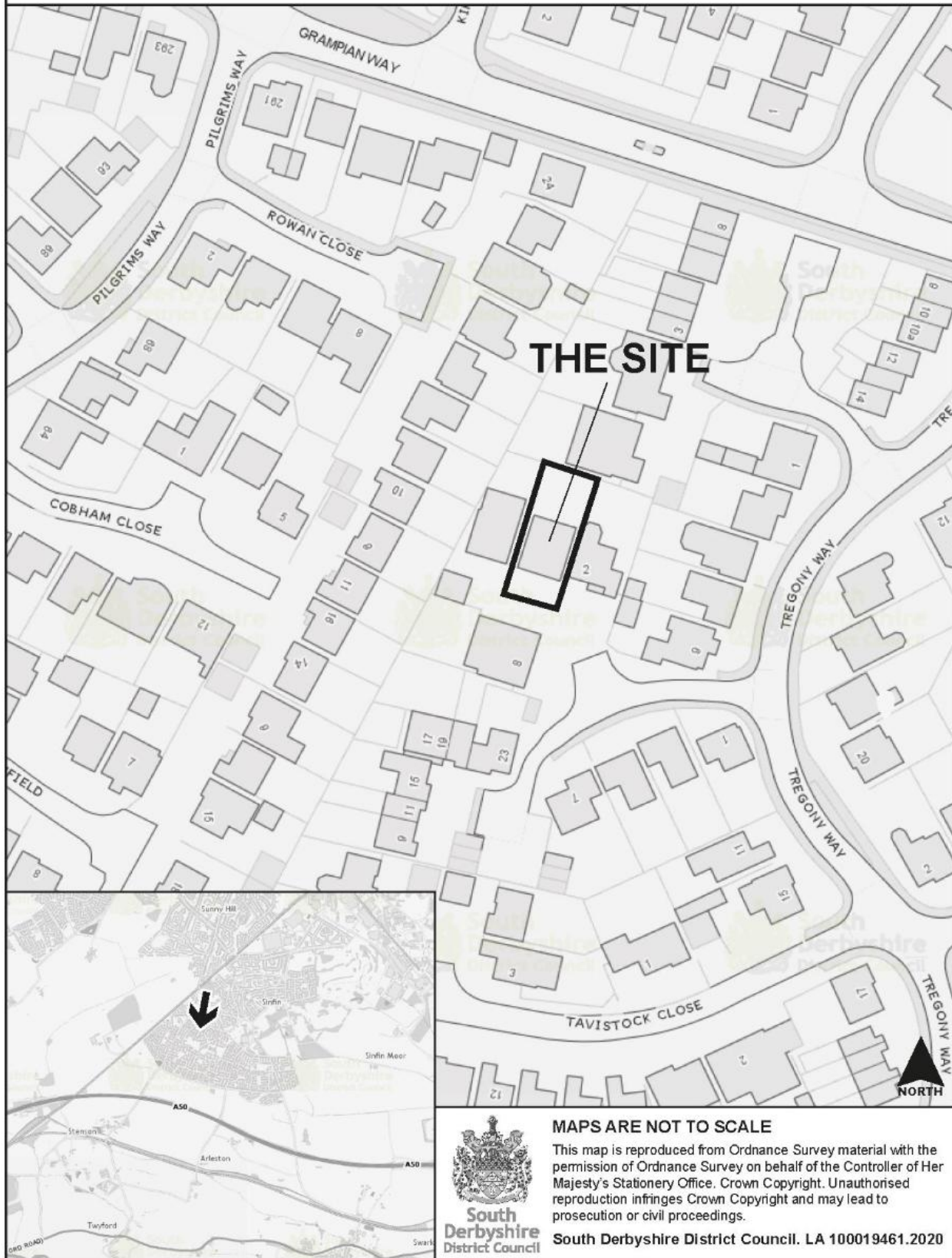
25 letters of objection have been received from nearby residents. The issues raised are as follows;

- a) The area is not suitable
- b) There are no facilities for children nearby
- c) Increase in traffic
- d) Increase in on street parking
- e) Increase in noise levels
- f) Lack of information submitted/provided.

Stenson Fields Parish Council - Object due to lack of parking, proposed layout and the provision of one bathroom for the number of children.

Councillor Singh (Ward Member) - Objects due to increase in traffic, potential for anti-social behaviour and lack of communication with the emergency services (highways safety).

DMPA/2021/0668 - 4 Padstow Close, Stenson Fields, Derby DE24 3LH



Derbyshire Police (Designing Out Crime Officer) - Objects due to unsuitable location.

Highways Authority - No objections.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), H20 (Housing Balance), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), INF2 (Sustainable Transport), BNE1 (Design Excellence).

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

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- Principle of development;
- Neighbouring amenity; and
- Highway safety.

Planning assessment

Principle of development

In regards to the principle of the proposed development, the focus is towards the impacts on neighbouring amenity arising from the proposed use, and the potential impact on highway safety. With no external changes proposed to the property, there are no design concerns. The existing dwelling is located within an urban area, and a mix of housing is needed throughout the district, so whilst a C2 use is proposed; support for the proposal is gleaned from Policy H20, which acknowledges the need to provide a mix of housing throughout South Derbyshire, as such the proposal is supported in principle.

Neighbouring amenity

The close proximity of this dwelling to others around it means the potential for disturbance is elevated. Consideration has been given to similar appeal decisions elsewhere and case law pertaining to such changes of use and indeed whether a material change in both use and outward effects would occur. In brief, the use of a dwellinghouse by children in care and concurrent occupation by care workers is not generally seen as a material change as the occupants are still living together as a single household. The proposal here however is somewhat different with the care workers not forming part of the 'family' but instead coming and going on a shift pattern to oversee and mentor the children. Notwithstanding the fact that in planning terms a material change of use occurs, the effects arising from this change are broadly similar to two parents coming and going to work each day and providing guardian responsibilities to their children. Whilst five children might seem a high number, it is not out of the ordinary for a six bedroomed dwelling and modern conventional families. Whilst there is elevated potential for children with behavioural difficulties, this is not a factor upon which the application 'hinges' as this could legitimately (and does) occur in a conventional family situation. The outward noise and disturbance effects are likely to be broadly similar, with no material change to privacy or overshadowing given that the proposed internal layout will be similar to the existing situation.

A condition will limit control on the numbers of children residing and the minimum number of staff in order to ensure proper control – especially given the elevated potential for children with behavioural difficulties and the need to afford some degree of protection to adjoining occupiers. It is considered that with this condition, the concerns of the police regarding the suitability of the location can be mitigated.

Highway safety

The property benefits from three parking spaces (two on the hardstanding to the front and one within the integral garage). The use is likely to require regular use of the three spaces, so there is considered to be sufficient provision. In addition, the Highway Authority have raised no objections on highway safety grounds. As a result, there are no concerns in regards to the impact on highway safety and the proposal is considered to comply with Policy INF2.

Other Matters

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.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the Proposed Plan received on 22 April 2021; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the residential care home hereby approved shall not be used for any purpose, including any other purpose in Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In the interests of protecting the amenity of adjoining occupiers.

4. The number of dependent residents at the property at any one time shall not exceed five and there shall be a minimum of two carers at the property at any one time when dependent residents are present.

Reason: In the interests of protecting the amenity of adjoining occupiers, recognising the nature of the use.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	11th JANUARY 2022	CATEGORY:
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	SARAH BEEBY sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION	REF:
WARD(S) AFFECTED:	ASTON	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of a further Deed of Variation (DoV) to include reference to the recently approved planning application for a one form entry (FE) school and amendments to the site area.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106 Agreement at the site. These relate to the provision of the school site.

3.0 Background

- 3.1 The site, known as Boulton Moor, Thulston, Derby was granted planning permission in January 2009 for the construction of up to 1058 dwellings, together with a primary school and retail provision. A further permission to extend the time period for submission of reserved matters was approved in November 2011. In 2017 an outline application was approved for the construction of a two FE primary school in an alternative location, together with an associated DoV.
- 3.2 The reserved matters application for the school (DMPA/2018/0017) was approved in April 2018 but has since lapsed. An application for a single FE Primary school has recently been approved in a similar position to that approved under this earlier permission (DMPA/2021/0922).
- 3.3 A further Dov is required to deal with the updated planning permission and the site boundary, at the request of the applicant (Derbyshire County Council).

4.0 Discussion

- 4.1 The Head of Planning and Strategic Housing recently approved a planning application for a new one FE primary school at the site under delegated powers. As part of this application the County Council advised that the communal areas within the school including the hall, were constructed to 2FE standards and the additional parking required for the expansion to a 2FE school were also shown on the site plans submitted for the application.
- 4.2 The new application and the change from two to one FE school will need to be updated in a DoV, whilst acknowledging that a two FE school would be acceptable.
- 4.3 The County Council would also like to amend the site of the school from that approved under the original S106 Agreement and with a small amendment to that approved under the 2018 DoV, to remove a small strip of land which extends northwards to the watercourse.
- 4.4 The proposed changes are relatively minor amendments to the S106 Agreement, and amount to pragmatic changes to accommodate the wishes of the County Council as Education Authority.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the County Council.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 Education provision would remain at the site, and this could be expanded once there is demand.

8.0 Background Information

- a. Section 106 Agreement:

https://planning.southderbyshire.gov.uk/documents/DN/2005/9_2005_0611%20Section%20106%20Agreement.pdf

- b. Deed of Variations:

[https://planning.southderbyshire.gov.uk/documents/DN/2005/9_2005_0611%20Section%20106%20Deed%20of%20Variation%20\(22-11-11\).pdf](https://planning.southderbyshire.gov.uk/documents/DN/2005/9_2005_0611%20Section%20106%20Deed%20of%20Variation%20(22-11-11).pdf)

[https://planning.southderbyshire.gov.uk/documents/DN/2015/9_2015_0959%20Section%20106%20Deed%20of%20Variation%20\(Jul%202017\).pdf](https://planning.southderbyshire.gov.uk/documents/DN/2015/9_2015_0959%20Section%20106%20Deed%20of%20Variation%20(Jul%202017).pdf)