

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2016/1118	1.1	Repton	Repton	29
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

07/02/2017

Item **1.1**

Ref. No. **9/2016/1118/OS**

Applicant:
C/O Agent
Pegasus Group

Agent:
Mr Steve Lewis - Roberts
Pegasus Group
4 The Courtyard
Church Street
Lockington
Derby
DE74 2SL

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

Ward: **REPTON**

Valid Date **26/10/2016**

Reason for committee determination

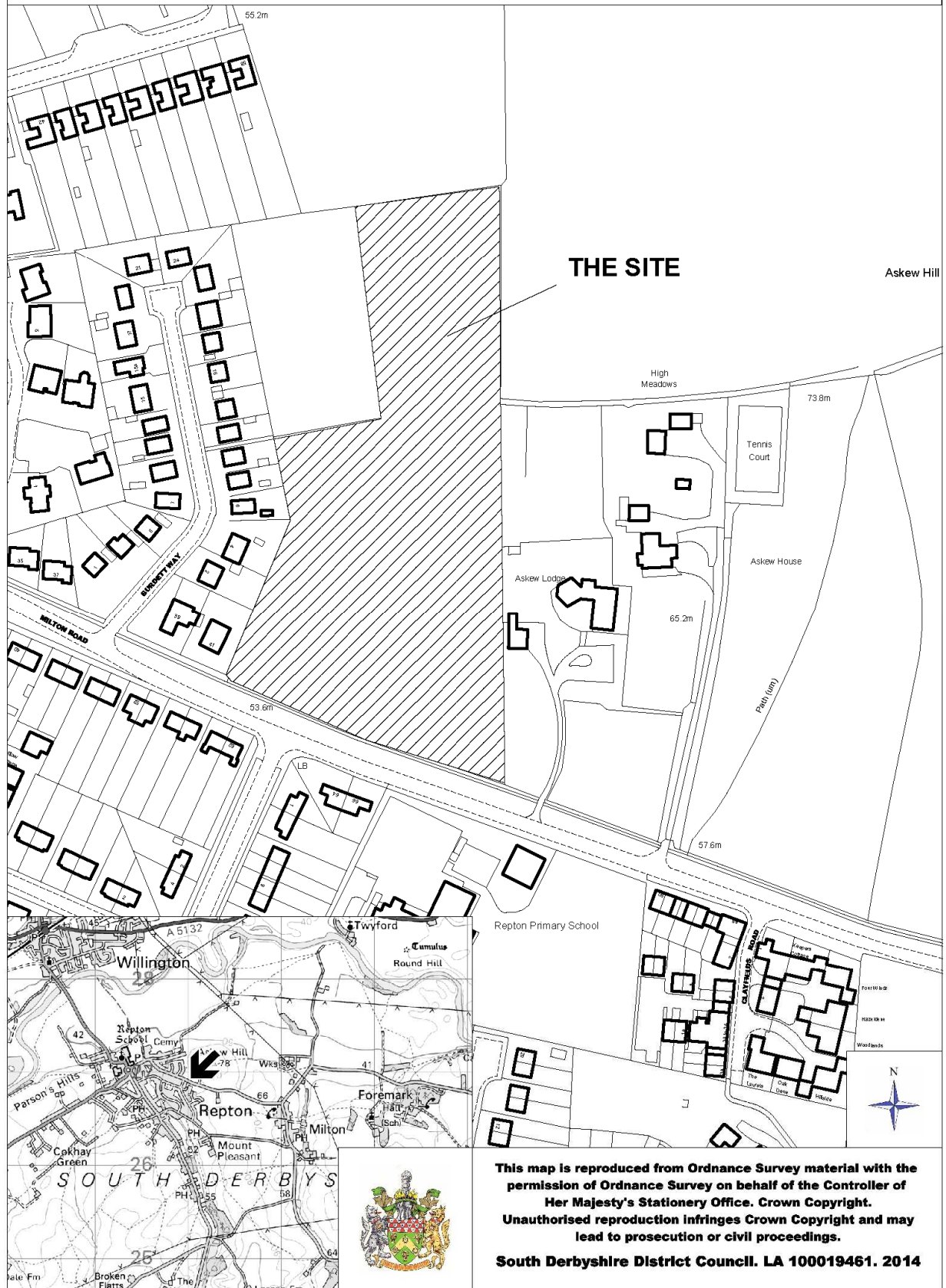
The item is presented to Committee as the proposal is a major application subject to more than two objections and contrary to the Development Plan.

Site Description

The application site extends to 1.93 hectares in area, located at the north-eastern edge of Repton. The site is currently grassland and comprises a field enclosed by a hedgerow to the north, east and south with residential properties on Burdett Way to the west, houses across Milton Road along with Repton Primary School to the south, and Askew Lodge to the east. There are significant level changes at the site ranging from 55mOD at the south-west corner adjacent to Milton Road rising up to 67.5mOD at the north-east corner of the site. Repton Footpath 29 crosses the site, running east-west linking Burdett Way with the countryside to the east.

An Area Tree Preservation Order (TPO) has been made to cover the mixed species trees at Askew Lodge to the east including those on the shared boundary between the site and Askew Lodge.

9/2016/1118 - Land at SK3126 0097 Milton Road, Repton DE65 6GA



Proposal

The application has been submitted in outline with all matters reserved for future approval, with the exception of access. The application thus seeks permission for the principle of developing the site for up to 25 dwellings, including affordable housing provision on site with this indicatively shown in the form of four bungalows, whilst a fifth could also be made available to the Council for such purposes; and the creation of a new access at the eastern part of the site frontage.

The indicative layout also illustrates the provision of a relatively large area of public open space to the north-eastern part of the site, north of the footpath, complimented by smaller areas of open space on the frontage to Milton Road and on the eastern boundary running north-south. The layout is indicatively shown with a central road complimented by short private drives, with pedestrian links to the footpath along the eastern edge of the site. New areas of landscaping in the site as a well as Sustainable Drainage Systems (SuDS) with adjacent pedestrian link are proposed to the south-western corner of the site.

Applicant's supporting information

The Design and Access Statement describes the site and its context and details the ecology, topography, landscape character and built context. The character study defines the four distinctive areas of Repton as the historic core, 19th Century growth, 20th Century growth and contemporary growth and describes each in detail with photographs. Key viewpoints are identified and local facilities and services plotted. The access to the site is described and sustainable modes of transport identified. The relevant planning policies are outlined. The evaluation section indicates the constraints and opportunities and then the design concept and proposals are discussed and shown in a series of plans. The layout, scale, density and landscaping are broadly outlined and the Building for Life assessment included.

The Planning Statement describes the site, proposal and identifies the relevant national and local planning policies. It states the site is adjacent to the key service village and accords with the site specific requirements in the Pre-Submission Local Plan Part 2. It provides the conclusions of the Sustainability Statement which provides the evidence base for the allocation. These were that the site could deliver a mix of housing, an off-site contribution for affordable housing and biodiversity gains. Its location is sustainable, it could deliver SUDS and it is not within the Conservation Area. The report concludes that the proposal represents an opportunity to deliver a high quality development in a sustainable settlement. The site is adjacent to existing residential properties to the west and east and is well contained to the north by the PROW and the site topography. It relates well to the existing built form and will form a logical village extension that is within walking distance of the amenities and facilities in the centre. Repton is identified as a Key Service Village in the Local Plan Part 1, and the site is allocated for housing in the Draft Local Plan Part 2.

The Arboricultural Assessment surveyed a total of twenty-five individual trees, five groups of trees and two hedgerows. Trees adjacent to the eastern boundary are covered by TPO 453 Askew Lodge. The vehicular access into the site will be from

Milton Road, using an existing field access. To facilitate this only a small section of a group, G5, will need to be removed for the entrance to the site and this group was assessed as having low arboricultural quality. A small section of G4 would require removal to improve the open space proposed and these trees have are low quality. The removal of a small section of the group compared to the retention of the majority along the remainder of the boundary should not prove detrimental from an arboricultural perspective. New tree planting is proposed and measures to be protect retained trees during construction are recommended.

The Geophysical Survey found no anomalies of probable or possible archaeological. Agricultural activity is represented in the form of ridge and furrow. This ploughing regime had already been recorded on site from historic aerial photographs. LiDAR imagery revealed this Medieval ploughing activity had become somewhat truncated due to modern ploughing. The geophysical results have corroborated the presence of this agricultural practice.

The Archaeological Report concludes that there are no designated heritage assets on the proposed development site. The designated heritage assets within the 1km search area are screened from the site by intervening built development and the local topography. Development of the site will not directly or indirectly impact the heritage significance of any designated heritage assets, or their settings.

There is one non-designated heritage asset recorded on the site which is a relict area of Medieval ridge and furrow, identified from aerial photographs (HER 24594). LiDAR data and recent satellite imagery demonstrates that the majority of the earthwork features on the site have recently been ploughed out. Should any remain extant on the site, it is considered to be of no archaeological interest. The site is assessed as having a low potential for mid to late Prehistoric evidence and a low/negligible potential for significant remains dating to all other periods.

The Ecology Report concludes the grassland and scrub offered by the site provides limited diversity comprising common and widespread species and as such the loss of these habitats is unlikely to have a significant effect on local wildlife. None of the on-site hedgerows were considered to be of nature conservation value. The site offers bats linear commuting and foraging features such as hedgerows, however these are somewhat limited and the on-site trees were considered to offer bats no/negligible potential roosting features. The site supported limited potential terrestrial habitat for GCN within the hedgerows and grassland tussocks and has a lack of aquatic habitat. No protected species were found during the survey and there are no significant ecological constraints to development. The majority of trees and hedgerows would be retained. Recommendations include: following best practice guidelines to avoid damage to retained trees and hedgerows and Ecologist supervision of works during the bird breeding and hedgehog hibernation periods.

The Flood Risk Assessment states that the whole of the development site lies within Flood Zone 1 low risk. The ground levels in this area are at a level of between 55mOD at the south west corner adjacent to Milton Road up to 67.5mOD at the north east corner of the site. The total area of the site is approximately 2.38 hectare of which 1.21 hectares will be used for the residential part of the development. It is estimated that the impermeable area following completion of the development will be increased to approximately 0.559 hectares which is approximately 17% of the total

site. The risk of fluvial flooding is considered to be low. It is assumed that the maximum depth within the proposed road system will be less than 100mm due to overland flows from the area to the north east of the site. As such, it is recommended that the internal ground floor levels of the dwellings are elevated at least 100mm above the adjacent road level to reduce the risk of flooding from overland flows. Consideration has been given to the hierarchy for surface water disposal which recommends the SUDs approach. It is considered that following the development there will be an increase in impermeable area and subsequently runoff from the site will also be increased. A pond will be used to provide attenuation.

The Landscape and Visual Impact Assessment concludes that in relation to the wider landscape, and the 'Melbourne Parklands – Estate Farmlands LCT', the degree of change would be very limited. The impact on landscape character would be associated with the limited on-site changes from the existing small scale enclosure of rough grassland and scrub, which are set tight into the urban context of Repton, to that of residential development contained within a framework of largely existing mature vegetation. For the 'Melbourne Parklands – Estate Farmlands LCT', the magnitude of impact within the study area will be neutral to negligible. Assessed alongside the medium sensitivity, this will result in a 'negligible adverse' effect. In the context of the site on this edge of Repton, the magnitude of impact on the local landscape character will be medium. Assessed alongside the low sensitivity, this will result in a 'minor to moderate adverse' effect. The public footpath crosses the site on an approximate west to east orientation. Across the site, users of the PROW will experience a transition between the urban and rural environments before breaching the tree belt to the east of the site and emerging into the wider countryside. From this route the significance of visual effect is determined to be 'moderate adverse' (looking towards settlement of Repton) to 'major adverse' (looking towards the eastern boundary of the site) at completion. Once the proposed planting as part of landscape mitigation is established, the significance of visual effect will be 'minor to moderate adverse' and 'major adverse' respectively.

The Highways Report states that the proposed development will be accessed via a new T-junction on Milton Road designed to standard and with appropriate visibility splays. The development site is accessible by a range of sustainable travel modes. Based on the existing modal split for Repton, the proposed development would generate a demand for three pedestrian journeys and one bus trip in an average peak hour. That modest demand can be adequately accommodated by the existing infrastructure, enhanced by the provisions on the masterplan. The proposed residential dwellings will generate approximately 19 two-way traffic movements in a peak hour. Once that traffic splits at the access the increase on Milton Road will be up to 10 vehicles an hour, an average of one vehicle every six minutes. Traffic flows will not materially alter. There is no record of accidents on Milton Road and as it would not materially alter as a result of the development an accident problem would not be introduced. Hence, there would be no adverse highway impact and off-site works are not necessary.

Planning History

None relevant to the current application.

Responses to Consultations

The Environment Agency has no comments to make.

The Environmental Health Officer has no objection.

The County Council Flood Team (LLFA) has no objections as it has been demonstrated that the site can be sustainably drained and recommend conditions in respect of surface water drainage.

The County Highways Authority has no objections subject to conditions regarding provision of a construction compound, mud prevention measures, design of the internal layout, access and visibility, footway width, access gradient, water discharge and construction details of the estate roads and footways.

Derbyshire Wildlife Trust considers that sufficient information has been provided. There would be a loss of semi-improved species poor grassland and a small amount of hedgerow due to construction of the access road. The ecological report and the tree report have both stated that the majority of trees would be retained, but the development would result in the loss of a small number of trees close to where the entrance is planned and a few self-set trees within the site. There could be a slight impact on bats in relation to foraging and commuting. The report also highlights the potential for impacts on hedgehog. Overall there is a small adverse impact on biodiversity at a local scale. The mitigation proposed of expansion of the woodland, landscaping, adoption of a precautionary method for reptiles, works outside the hedgehog hibernation period, and lighting measures are considered acceptable. Conditions in respect of protection of breeding birds during construction, bat lighting, provision of a Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) are recommended.

Peak and Northern Footpaths state that the legal line of Footpath 29 Repton along the northern edge of the site has been respected and the width of the path should be unobstructed. New paths created should be legally dedicated as public footpaths.

The Police Crime Prevention Design Advisor has no objection.

The Coal Authority has no comments.

The County Archaeologist states that as the geophysical report does not show any archaeological targets no further archaeological work is required.

The Contaminated Land Officer has no comments.

The County Minerals Authority states that the minerals resource does not represent a constraint to development as any extraction would be impractical and poor quality.

Severn Trent Water has no objection subject to a drainage condition and informative regarding possible sewers within the area.

The Council's Tree Officer raises no objection, stating that the trees protected by the area TPO would be largely unaffected by the access road. He advises, however, that the calculated root protection area (RPA) for trees T13 and T14 requires review to ensure RPA barriers during construction are accurate.

The County Education Authority states that financial contributions are required to mitigate the impact of the proposed development on school places, with a total of £105,960.48 requested towards the provision of 4 secondary places and 2 post 16 places at John Port School.

The Southern Derbyshire CCG states that Willington Surgery would not have spare capacity to meet the demand of new patients generated by the development. A contribution of £9,586 is requested in order to provide additional capacity at the surgery.

Responses to Publicity

Repton Parish Council (RPC) objects to the proposal for the following reasons:

- i) the site is outside the existing village development boundary;
- ii) the RPC Neighbourhood Development Plan (NDP) is now a mature set of documents. It is clear from the process of preparing these that the residents of the parish have serious concerns about further large-scale developments. The NDP pre-submission consultation will occur early in 2017;
- iii) SDDC is currently consulting on its own Local Plan Part 2. It is not logical to grant planning permission for such a significant development prior to the thorough assessment and independent examination of both the Part 2 Plan and NDP;
- iv) a site visit is requested;
- v) the site is within the countryside, contrary to Local Plan Policy BNE5;
- vi) the proposed changes to the development boundary of Repton have been added after the initial consultations in February and July. Evidence has not been adequately presented to justify the choice of this site over others in the district and a justification given why changes to the village development boundary are proposed after extensive consultation had already been completed;
- vii) smaller developments in close proximity have been refused for 'unsuitable access';
- viii) the site is not sustainable, being a considerable distance from the facilities such as shops, food outlets and bus stops;
- ix) traffic surveys in Repton make it clear that car usage is a major problem with air quality impacts;
- x) the proposal would increase flooding on Milton Road;
- xi) the elevated nature of the site means it is clearly visible from the village and surrounding countryside and contravenes the guidelines in the 2006 Village Design Statement and this was ignored in the developer's landscape appraisal;
- xii) Repton Parish has already been allocated 48 houses in excess of the Local Plan Part 1 provision; and

- xiii) assurances were given that due to the Mount Pleasant Road development further development could easily be resisted.

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

- a) the road network is already over capacity even before houses currently being constructed are occupied and this proposal is going to make the village inaccessible;
- b) there are serious concerns regarding school provision as John Port is struggling with places;
- c) the local primary school is already full and not all the housing granted permission has been built;
- d) the village does not have the infrastructure to cope with more housing;
- e) there is a 7.5 t weight limit on Milton Road for construction traffic;
- f) the additional traffic generated may be 50 cars;
- g) there is a well-used footpath that crosses the site, what would happen to this?
- h) the site has quite a slope and if tall houses with rooms in the roofspace are proposed, their bungalow would be dwarfed;
- i) they were told that their boundary was the village boundary and could not be breached;
- j) a sewer crosses the site and the existing properties served by it require continuous service during construction;
- k) the sewerage system is near capacity and repair works cause major traffic disruption;
- l) an application for two bungalows was rejected as it would spoil the rural nature of the site and impacts on traffic;
- m) the Mount Pleasant site does not preserve views;
- n) the traffic report figures are questionable and a combination of developments should be considered as they would be over the 50 threshold for a formal traffic assessment to be carried out;
- o) there would be an increase in air pollution;
- p) the settlement boundary should not be extended beyond that envisaged in Part 1;
- q) there would be an intrusive impact on views of local importance around Askew Hill;
- r) there would be a loss of open space currently enjoyed by walkers along the ancient footpath;
- s) there is little local employment in the area which increases the need to travel;
- t) Repton already has over 100 new houses being built adding to severe infrastructure problems;
- u) the traffic report which states that 50% of the traffic would head towards Milton is wrong as the majority would travel towards Repton and the major routes of the A38 and A50;
- v) the brownfield sites on the former Drakelow or Willington power stations should meet the housing need instead;
- w) the development is not consistent with the Repton Neighbourhood Plan and should be deferred until this document and Part 2 of the Plan have been adopted;

- x) a key view of the village from the footpath would be lost and this is not included in the landscape appraisal;
- y) there is a concern regarding increases in surface water flooding at Brook End and Repton brook flooding;
- z) approval of this application would set a precedent for development outside the village boundary and make the askew lodge site more likely to come forward;
- aa) the application is premature as Part 2 of the Local Plan has not been submitted for inspection and should not be determined;
- bb) the proposal is an intrusion into the countryside and degrades the green wedge that surrounds the settlement boundary;
- cc) the proposal is not accessible to the national cycle network via bridleways;
- dd) it has been suggested that the views expressed in the Repton ndf carry little weight and the proposals in Part 2 carry great weight which seems unfair and undemocratic;
- ee) planning permission for 130 houses has already been granted, surrounding the local primary school;
- ff) one half of children at the primary school come from outside the village which leads to increases of traffic on Milton Road;
- gg) the application should be refused as 'the residual cumulative effect of the proposed development will be severe' on traffic flow;
- hh) due to the sloping nature of the site bungalows only should be considered on the 5 plots adjacent to existing properties and the whole of the land to the north of the public footpath be allocated as open space;
- ii) the proposal would serve to erode the division between Milton and Repton;
- jj) in a rural environment the density of housing proposed is totally unacceptable;
- kk) new residents of the Mount Pleasant housing scheme are parking on the pavement;
- ll) the submitted information is incorrect in terms of the health centre as it only has limited services with no doctors on site;
- mm) residents parking permits should be used on High Street and Boot Hill if more development is allowed;
- nn) the application did not initially appear in the proper date order on the applications list and may have been missed by people;
- oo) the proposal would affect the privacy of residents of Burdett Way due to the sloping nature of the site; and
- pp) although classed as a local service village Repton does not have a doctors or chemist and only a bus service every hour.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), 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), 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) and INF9 (Open Space, Sport and Recreation).

- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features).

Submission Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)
- Section 106 Agreements – A Guide for Developers

Planning Considerations

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

- The principle of development;
- Landscape and visual impacts;
- Connectivity and highway safety impacts;
- Biodiversity; and
- Section 106 contributions

Planning Assessment

The principle of the development

As members are aware the starting point in determining the acceptability of development proposals is the Development Plan before consideration of any other material considerations, which includes the guidance contained within the NPPF, the Submitted Local Plan Part 2 ((LP2) and the evidence that supports it), and the NDP.

Following the adoption of the Local Plan Part 1 (LP1) new residential development should be directed to the most sustainable sites within the District (i.e. those

allocated within the Local Plan or sites within the defined settlement boundaries). The LP1 provides a framework for sustainable development in the District, supported by the LP2, and as a pair the overall Plan is designed to enable the District to meet its objectively assessed housing need over the plan period. Policy H1 of the LP1 sets the settlement hierarchy for the District and identifies Repton as a Key Service Village (KSV) in acknowledgement of the range of services and facilities available in the village. The LP1 identifies the strategic housing allocations whilst the LP2 identifies the non-strategic housing allocations in emerging policy H23.

The LP2 reviews the settlement boundaries identified within the 1998 Local Plan (LP98) as the settlements have changed – in some places quite significantly – since the boundaries were originally drawn. The changes have occurred through growth that has taken place, or growth that is expected to take place. The application site therefore currently sits outside the adopted settlement boundary for Repton, and as such is contrary to saved Policies H5 and EV1 of the LP98. However, the settlement boundaries identified in the LP98 do not cater for the housing growth required in order to meet the needs of the District, and land to meet this need is required and identified through the LP1 and LP2 allocations and the resultant revised settlement boundaries proposed through emerging Policy SDT1.

The site covers the majority of the slightly larger site proposed for allocation under emerging Policy H23G (Land at Milton Road, Repton), and as such is included within the revised settlement boundary for Repton, as set out in emerging Policy SDT1. Whilst the emerging policy is not yet formally adopted, it is a material consideration. In line with paragraph 216 of the NPPF, the stage of preparation of the plan, the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies with the NPPF allow weight to be afforded to it. During the LP2 preparation process statutory consultees have been generally supportive of the allocation, apparent from the consultation responses received on this application, leaving mainly public objection. The very existence of the LP2 rests on the soundness and adoption of the LP1. Without the latter, the former cannot exist. For this reason it is considered that the weight afforded to policies in the LP2 can progress from an elevated position, due to many 'hinging into' the 'parent' strategic policies, such as Policy H23 relying on Policies S4 and H1; and because the same evidence base informs this second part of the Plan – an evidence base which has already largely been subject to testing and considered sound through the adoption of LP1. The LP2 was also submitted to the Secretary of State on 24 January 2017 and an Inspector has been appointed. With these points in mind, it is considered that the policies within the LP2 can be attributed elevated and substantial weight in the decision making process. Therefore the conflict identified with saved Policies H5 and EV1 is considered to be outweighed by the site's allocation in LP2 as a result of the need to deliver housing to meet the needs of the District.

The comments received relating to the stage of the plan process and the prematurity of making a decision on the application in advance of the adoption of the site as a formal allocation, are noted. Guidance on this issue is contained within the Planning Practice Guidance (PPG), and the question involves a need to weigh up how the development of the site fits with the adopted LP1 strategy and the emerging LP2 policies. The consideration is whether the development would prejudice the strategic and spatial pattern/location of development in the District. With the site an emerging

allocation, which has been the subject of detailed appraisals and is part of the strategy to ensure the sustainable delivery of housing within the District up to 2028; it is considered that the approval of this application would not prejudice or undermine the plan making process. Indeed, the refusal of this application would arguably undermine the plan making process and potentially inhibit the ability to deliver housing needs and maintain a rolling 5 year supply.

Also material is that the Repton Neighbourhood Plan is progressing, and has almost reached the Regulation 14 Pre-submission consultation stage, and that the current version of the plan does not support the development of this site. However, given that the approved submission version of LP2 allocates the site and that the Neighbourhood Plan is not yet at consultation stage, the latter cannot be attributed significant weight.

Given that emerging Policy H23 allocates the site for up to 25 dwellings, it is considered that the principle of the quantum proposed is acceptable. Consideration therefore turns to the detailed requirements of the policy and the site specific requirements of the allocation. The key considerations for each of the 14 sites allocated within the policy are:

- i) transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impact 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; and
- vi) the design and layout to take account of site characteristics;

The site specific requirements are set out under part G of the policy:

- a) up to 25 dwellings;
- b) access to be to existing the public right of way across the site and pedestrian access to Milton Road;
- c) minimise the loss of hedgerow to the front of the site;
- d) enhancement of existing hedgerows and trees across the site;
- e) no built development north of the existing public right of way (running east-west) on the site;
- f) open space to be provided to the north of the public right of way; and
- g) the housing mix of the site will include at least two bungalows.

Whilst the application has been submitted in outline with only access for consideration at this stage, it is accompanied by an indicative layout and it is appropriate to consider this layout against the detailed requirements of the policy, which are considered below.

Landscape and visual impacts

Policy S1 of the LP1 highlights that “it is essential that the District’s heritage assets, landscape and rural character are protected, conserved and enhanced”. Policy BNE1 seeks, amongst other objectives, to ensure that new developments create

places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics; with new developments expected to be visually attractive, appropriate, and respect important landscape, townscape and historic views and vistas. Further considerations are further set out in Policy BNE4 where the character, local distinctiveness and quality of the District's landscape will be protected through careful design and the sensitive implementation of new development. The site has been assessed for its landscape character as part of the LP2, which has considered the landscape and scenic qualities of the site, its susceptibility to change and the scope for mitigating the impacts of the development.

The site experiences significant level changes with the frontage to Milton Road being significantly lower than the northern part of the site. The site also falls from east to west. To the west, the site abuts Burdett Way and to the south it is opposite existing properties on Milton Road and Repton Primary School. Significant tree cover is found on the eastern boundary (recently protected by TPO) which, when combined with the layout placing the dwellings south of the public right of way; reduces the visual impact on approaches into the village – both vehicular and pedestrian. Distant views of the site as well as any adverse impacts on heritage assets in the village by way of views from the footpath are avoided by locating dwellings south of the public right of way, in line with the requirements of emerging Policy H23.

In terms of the proposed design and layout, whilst indicative, the site layout demonstrates how the site could be appropriately developed to the quantum proposed. In general, the principles outlined within the Design & Access Statement and the submitted masterplan appear to be well conceived and would result in the provision of a well-designed and laid out development which complies with the detailed requirements of emerging Policy H23. In considering the location of the proposed open space within the site, due to the level changes the use of the northern part of the site for this open land use is appropriate. This location would also result in this area being readily accessible to both existing and prospective residents in the locality and the wider community of Repton.

Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not unduly adversely affecting public aspects of the site. The proposal is considered to be a sensitively designed new development which has evolved so as to create as little impact as practicable on the countryside.

Connectivity and highway safety impacts

Generally, by virtue of the reasonably good connection and proximity to the heart of Repton, the site is considered to be a sustainable and accessible location, with services, public transport and education facilities mostly within walking distance. It is acknowledged that at certain times the local roads are busy; however there is no evidence to demonstrate that the proposed development would have a severe impact on the highway network and wider transport infrastructure. The NPPF makes clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Hence, notwithstanding the representations received, in highway safety

terms the proposal is considered to be acceptable and permission should not be withheld on highway safety grounds.

The site sees significant level changes at the boundary with Milton Road with the carriageway being lower than the site. It is noted that the footway in this location is detached from the carriageway and located behind a relatively wide grass verge. Vehicular access is proposed from Milton Road opposite Repton Primary School, where the speed limit is 30mph. Pedestrian access is also proposed at the point of the vehicular access which is proposed to the eastern side of the site as well as with a pedestrian access towards the western side of the site frontage. Furthermore the illustrative layout proposes access to the existing public right of way, which crosses the site, running east-west between Askew Hill and Burdett Way. Adequate and appropriate off-street parking is indicatively shown provided, generally on plot. In the round, with no objections from the Highway Authority, these points combine to create a well-connected and served development.

The internal roads within the development have not been assessed at this stage as they are only indicative and would be assessed at reserved matters stage. The number of dwellings proposed is also not considered to cause capacity issues on the wider network. The frequency of bus services nearby is also relatively good for a rural village. Given all the above, the proposal is considered to accord with policies S6 and INF2, and provisions of the NPPF.

Biodiversity

The site is presently comprised of semi-improved grassland with trees and hedgerows to some of the site boundaries. The Habitat Survey identified that there are no statutory or local sites of nature conservation value which would be affected by the proposed development. The habitats of note relate to the margins of the field made up of existing hedgerows and trees – the majority of which are to be retained within the development proposals (save for the loss of vegetation to facilitate the site access, which can be adequately compensated for within the site). The proposed mitigation strategy includes native planting along with the ecological enhancements which are considered to result in a net gain in biodiversity across the site. As recommended by Wildlife Trust, a CEMP and LEMP would be necessary to mitigate the impact. Overall it is considered, subject to conditions, that the impact of the development on ecology would be acceptable and comply with policy BNE3 of the LP1, saved policies EV9 and EV11, and emerging policy BNE7, as well as the Habitats Regulations.

Section 106 contributions

Paragraphs 203 to 205 of the NPPF relate specifically to planning obligations and advise that these should only be sought where they meet all the following tests:

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

In addition the CIL Regulations 2010 places controls on the use of planning obligations for financial contributions to no more than 5 contributions per infrastructure type or project.

Policies INF1, INF6 and H21 expect new residential development to be adequately supported by infrastructure and, where necessary, the impacts mitigated. Whilst additional strain on existing roads and sewers is inevitable with any new housing development, there is no substantive evidence to command planning obligations for such infrastructure. As detailed above, the application indicatively includes the provision of five bungalows, four of which are shown to be affordable. Of the four, three would be for rent with one would be for shared ownership purposes. It is also advanced that there would be an option for the fifth bungalow to be purchased as an additional affordable unit. The provision of bungalows, the affordable breakdown and option for the Council to purchase the fifth bungalow would need to be secured through the section 106 agreement, as well as restricting all five to be retained as bungalows.

Education and healthcare capacity is of concern and for this reason contributions to mitigate these impacts are sought by the County and the CCG. The County has confirmed that no contribution would be required for the local primary school as current and future projected pupils on roll, together with obligations arising from approved developments, demonstrates that Repton Primary School would have sufficient capacity to accommodate the 5 primary pupils expected to arise as a result of the proposed development. They do, however, require contributions for education provision for secondary and post-16 education in order for the local school to be able to accommodate the projected increase in pupil numbers:

- £105,960.48 towards the provision of 4 secondary places and 2 post 16 places at John Port School which would be directed towards a scheme of works to accommodate additional pupils.

The CCG considers that whilst a number of GP practices are likely to be affected by the development, the most likely to be affected is the Willington Surgery. As such a contribution of £9,586 is considered to be necessary in order to improve capacity.

The proposal would also have impacts on existing built and outdoor sports facilities off-site, with improvements to the outdoor recreation facilities at Broomfields Playing Fields (for pitches or the pavilion) and the extension to Repton Village Hall identified as the appropriate projects. The contributions would need to be calculated at reserved matters stage as follows:

- £220.00 per person (bedroom) for outdoor sports facilities; and
- £122.80 per person (bedroom) for built facilities.

The illustrative layout includes the provision of a total of 0.874 ha of public open space (POS) within the site which is considered to a generous level of incidental on-site provision in terms of quantity. This is split between a relatively large area of open space of 0.523 ha north of the public right of way as well as smaller areas on the periphery of the site to the east, the site frontage, and between the surface water attenuation pond and the proposed dwellings. The number of dwellings proposed

triggers the need for provision of a Local Area for Play (LAP) under the Section 106 guidance, and whilst not shown on the indicative layout this can be secured by way of condition. In the first instance the Council would not wish to adopt the POS (including the LAP) or the proposed SuDS, although in the event that a management company could not be secured then a suitably commuted sum would be required for each element by way of the section 106 agreement.

All the above sums have been reviewed against existing committed sums from other developments, and are compliant with the CIL Regulations.

Other Issues

The application site is located within Flood Zone 1 and thus at a low risk of flooding. The Flood Risk Assessment (FRA) indicates that the only potential source of flooding is surface water as this is a greenfield site. The site, due to the topography, lends itself to a sustainable surface water drainage strategy with a surface water attenuation pond indicatively shown at the lowest part of the site. The public surface water sewer lies to the south of the site in Milton Road and has been identified as a point of discharge since there are no watercourses nearby. The development would lead to an increase in impermeable areas and subsequently run-off rates from the site would also be increased. However the capacity of the attenuation pond has been calculated for the 1 in 100 year plus climate change (40%) event and the LLFA has no objections subject to a detailed design being submitted and approved at the detailed stage.

As only an indicative layout has been provided and no specific details in terms of the house designs are known at this stage, other than likely position of the bungalows; a further assessment of potential overshadowing, overbearing, overlooking and loss of privacy would need to be undertaken at the reserved matters stage. However the indicative masterplan indicates sufficient separation can be achieved to provide the quantum of development proposed.

A geophysical report revealed no clear archaeological targets and the response of the Development Control Archaeologist confirms that no further archaeological work is required on the site.

Conclusion

The development is considered to be acceptable in principle taking into account the provisions of the LP1 and the emerging allocation within the LP2. The LP2 (including the evidence that supports the allocation of the site) is considered to be the most up to date policy basis on which to judge the application, and under the provisions of the NPPF it is considered that emerging Policy H23 can be afforded significant weight in the decision making process.

Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not adversely affecting public aspects of the site, and the proposal is considered to be a sensitively designed new development which has been designed and located so as to create as little impact as practicable on the countryside. The surrounding highway network is considered to

have sufficient capacity to accommodate the proposed development, safe access is achievable and subject to suitably designed internal roads and parking provision; the proposal is not considered to have any significant detrimental impacts on the safe and efficient operation of the local highway network. The site has also been the subject of detailed ecological and archaeological surveys, and a FRA, which all consider the development of the site to be acceptable (subject to conditions where relevant).

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

Recommendation

- A. That the Committee delegates authority to the Planning Services Manager to conclude the Section 106 Agreement in pursuit of the provisions and contributions as set out in the planning assessment above; and
- B. Subject to A, **GRANT** permission subject to the following conditions:
1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun 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(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
 2. Approval of the details of the appearance, landscaping, layout and scale (the Reserved Matters) shall be obtained from the Local Planning Authority in writing upon an application made in that regard before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
 3. The access arrangements hereby permitted shall be carried out in accordance with plan/drawing ADC1245/001 Rev B unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt and in the interests of sustainable development.
 4. The details submitted pursuant to the reserved matters under condition 2 shall broadly be in accordance with the illustrative concept plan (ref: EMS.2671_004 Rev H) and paragraphs 4.15 to 4.38 of the Design and Access Statement (ref: EMS.2671_004, dated 26/10/2016); and each application for reserved matters approval shall incorporate, as far as is

relevant to that/those matter(s) and/or phase of development, the following requirements:

(a) the internal layout of the site shall accord with the Highway Authority's policy document '6Cs Design Guide' and national guidance laid out in Manual for Streets;

(b) the gradient of the new access road onto Milton Road shall not exceed 1:30 for the first 10m into the site from existing highway boundary, and 1:20 thereafter;

(c) details and location of any retaining structures necessary to accommodate the existing and/or proposed ground levels; and

(d) a revised Tree Survey Plan recalculating the root protection areas of trees T13 and T14 (as numbered in the submitted Arboricultural Assessment (January 2017)).

Reason: To ensure the detailed scheme submitted accords to the principles secured at outline stage, and to enable satisfactory assessment of the reserved matters.

5. During the period of construction, there shall be no ground or construction works, deliveries, or operation of plant or machinery outside the following times: 0800-1800 hours Monday to Friday and 0800-1300 hours on Saturdays.

Reason: To protect the amenity of adjoining residential property.

6. Any lighting provided on the site shall conform to the measures set out in the Ecological Report (section 4.19 and 4.20) which shall be implemented in full and thereafter be maintained as such for the lifetime of the development.

Reason: To ensure that ecological interests are protected and enhanced.

7. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason: To ensure that ecological and biodiversity interests are protected.

8. Prior to the commencement of any site clearance works or other development, an Arboricultural Method Statement and Tree Protection Plan, including details of excavation techniques to minimise disruption with the Root Protection Areas (RPAs) of the retained and protected trees, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in conformity with the details agreed therein.

Reason: To safeguard the health of the retained and protected trees, recognising that initial works to prepare the site could give rise to unacceptable impacts if not properly mitigated for.

9. Before any other works commence, a new vehicular and pedestrian junction shall be formed to Milton Road in accordance with the approved access

plan/drawing, laid out, constructed and be provided with visibility sightlines extending to a point 2.4m from the carriageway edge, measured along the centreline of the access for a distance of 43 m in each direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, recognising that initial works to prepare the site could give rise to unacceptable impacts if not properly mitigated for.

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

Reason: In the interests of highway safety, recognising that initial works to prepare the site could give rise to unacceptable impacts if not properly mitigated for.

11. No development shall take place (including ground works and/or vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of biodiversity protection zones;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) especially in relation to Reasonable Avoidance Measures for protected species (e.g. reptiles and hedgehogs);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure that ecological and biodiversity interests of the site are protected, recognising that initial works to prepare the site could give rise to unacceptable impacts if not properly mitigated for.

12. No development shall commence until an assessment has been carried out of the potential for disposing of surface water by means of sustainable drainage systems and the results of the assessment submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include for drainage of the roads to be created within the site and include measures to prevent surface water discharging onto the public highway. Where this assessment identifies the ability to dispose of the surface water by means of a sustainable drainage system, a detailed design and associated management and maintenance plan of surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority. Such scheme shall be in accordance with Defra non-statutory technical standards for sustainability drainage systems and:

1) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

2) include a timetable for its implementation; and

3) provide a management and maintenance plan for the lifetime of the development which shall, where appropriate, include the arrangements for adoption by any public authority or statutory undertaker, or other arrangements to secure the operation of the scheme through its lifetime.

The approved drainage system shall be implemented in accordance with the approved detailed design and timetable for implementation.

Reason: In the interests of flood protection, both on and off-site, recognising that initial works to prepare the site could give rise to unacceptable impacts if levels, etc. are not properly established.

13. No development shall commence until details of the finished floor levels of buildings as well as details of any regrading of surrounding land have been first submitted to and approved in writing by the Local Planning Authority. The levels shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the amenity of neighbours, recognising that initial works to prepare the site could give rise to unacceptable impacts if levels, etc. are not properly established.

14. Prior to its installation, details of the proposed means of foul sewage disposal/drainage shall be submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details prior to the first occupation of each respective dwelling.

Reason: To ensure that adequate drainage facilities are provided.

15. Before the first occupation of a dwelling the footway fronting the site on Milton Road shall be widened to a minimum of 1.8m in accordance with a scheme first submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

16. Before the first occupation of a dwelling a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats shall be

submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed/created;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan; and
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological and biodiversity interests are protected and enhanced.

Informatives:

1. The application site is affected by Public Right of Way Footpath 29, Repton, as shown on the Derbyshire Definitive Map. The route of the footpath 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 works take place. Further advice can be obtained by calling 01629 533262 and asking for the Rights of Way Duty Officer.

Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058 058 for further information and an application form.

If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it would permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission would be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

2. The County Highway Authority advises that car parking provision should be made on the basis of a maximum ratio of 1.5, 2 and 3 spaces per 1 bedroom/ 2-3 bedroom/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 4.8 m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.

3. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up 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.

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

5. This permission is the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

6. Severn Trent Water advises that there may be sewers located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

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

objections and issues, suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

8. The applicant is advised that the RPAs of T13 and T14 as shown in the Arboricultural Assessment should be re-calculated as they appear to be inaccurate and all RPAs will need to be reviewed for trees where no access was possible.

9. The applicant is advised to consider providing access to high speed broadband services for future residents in conjunction with service providers.

10. The applicant is advised to ensure that the size of the attenuation pond is sufficient to accommodate run-off from impermeable areas including the developable zone, e.g. gardens that may reach the impermeable areas and ultimately the attenuation pond.

11. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):

- facing materials, eaves and verge details, and cill and lintel details;
- window, door and (where relevant) rooflight, chimney and porch details;
- surfacing materials;
- boundary treatments (including materials thereof); and
- soft landscaping details.

07/02/2017

Item **1.2**

Ref. No. **9/2016/1073/FM**

Applicant:
Mr A. Hall
Gravelly Bank Farm
Rodsley Lane
Yeaveley
Derby
DE6 2DT

Agent:
Mr Rob Duckworth
Jvh Town Planning Consultants Ltd
Houndhill Court
Houndhill
Marchington
ST14 8LN

Proposal: **THE ERECTION OF A DETACHED DWELLING AT LAND TO THE REAR OF FIELDGATE HOUSE MARLPIT LANE SUTTON ON THE HILL DERBY**

Ward: **HILTON**

Valid Date **19/10/2016**

Members will recall deferring the determination of this case to allow a site visit to take place. The report below remains as previously presented.

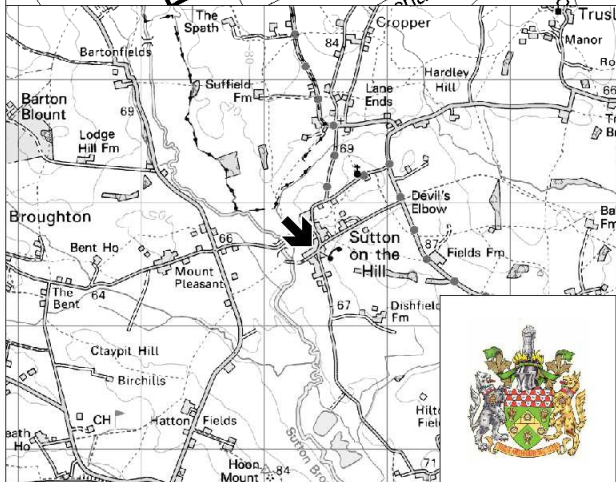
Reason for committee determination

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

Site Description

The application site is located at the junction of Marlpit Lane and Dish Lane, to the rear of Fieldgate House, which is a detached, two-storey dwelling on the western side of the road. An existing vehicular access to the south of Fieldgate House extends into the site and currently serves three cottages to the south of the application site. An existing brick and tile barn that has recently been converted to residential use is also served by the existing access.

The site has an open aspect to the west over agricultural land and shares common boundaries with the rear gardens of The Birches to the north, Fieldgate House to the east and the curtilages of Potager Cottage, Hillside Cottage and Hill Crest to the south. The barn conversion is located to the east. The three cottages to the south of the site are of a more traditional style, albeit these have been enlarged at the rear by fairly recent, modern, single and two-storey extensions, which are evident from the application site.



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South Derbyshire District Council. LA 100019461. 2014

Proposal

This is a full application for the erection of a single dwelling on the site, which would incorporate the existing garage granted under 9/2016/0553. The original plans showed a T-shaped, part two-storey and part single storey dwelling comprising 1, 1½ and 2½ storey elements, a design that seeks to address the character and style of the adjacent single storey barn conversion to the east. The height of the middle section of the dwelling, at 2½ stories, reflects a concept of a traditional farmhouse with single storey 'converted barns' projecting from the main element. Following negotiation, the dormer windows have been removed to reflect a more traditional form.

Applicant's supporting information

The agent's Planning Statement sets out the proposal and site description and seeks to address the previous reasons for refusal setting out the policy context and concluding that the revised scheme meets all the national and local policies.

Planning History

9/2013/0323 – Conversion of barn to dwelling – approved 25/06/2013

9/2013/0666 – Change of use of land from agricultural to domestic and erection of detached garage with ancillary accommodation above – approved 24/10/2013

9/2015/0615 - The erection of a detached dwelling – Refused 26/08/2015

9/2016/0251 – Conversion of agricultural building to dwelling (alterations to previously approved scheme 9/2015/0616) - Approved 11th May 2016

9/2016/0553 – Change of use of agricultural land to residential and the erection of a detached garage block – Approved 5/08/2016

Responses to Consultations

The Environmental Protection Officer (contaminated land) has no comments to make.

The County Highway Authority re-states its comments from the similar previous application (9/2015/0615) that the proposed development is not considered ideal, owing to the limited visibility from the site access onto Marlpit Lane. However, considering the rural nature and the low vehicle flows on Marlpit Lane an objection to the creation of one additional dwelling would be difficult to sustain in this instance. On that basis, there are no objections subject to a condition being included on any consent relating to the provision of space within the application site for the parking and manoeuvring of residents' vehicles, prior to occupation.

No comments have been received at the time of writing on the proposal from Severn Trent Water.

Responses to Publicity

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

- a) The previous reason for refusal of scale and massing still apply.
- b) The previous reason for refusal of the development of a backland site also still applies being contrary to the character of the historical linear development of the settlement.
- c) Access from the existing garage/parking area at the rear of Fieldgate House is tight and is effectively a blind spot and additional traffic will exacerbate this issue.
- d) The proximity of the proposed dwelling is too close to the converted barn.
- e) The height of the proposal allows overlooking of both the barn conversion and dwellings to the south and east.
- f) The proposed dwelling would dominate its immediate location.
- g) It is understood that there are restrictive covenants in place preventing 'backland' development on Marlpit Lane. To allow this proposal would negate these covenants.
- h) The massing and height are too large – any proposed development in this location should be no higher than the converted barn which would be dwarfed by this proposal.
- i) The scale of the proposal would have an overbearing effect on the use of the rear garden at The Birches.
- j) The revised scheme appears to be a token gesture at addressing the previous reasons for refusal.
- k) Approving this proposal would set a dangerous precedent to allow other possible backland development at the rear of Marlpit Lane.
- l) The block plan is not accurate in that it does not show the proposed dwelling in the context of existing development.
- m) The omission of some of the garages from the block plan appears to show a much less congested area and assists in making the proposal look more spacious than it actually is.
- n) There are no other examples of backland development in Sutton.

One further email has been received from a firm of planning consultants acting on behalf of residents who live in a property on Brook Lane, which is approximately 50m to the southwest of the application site. In summary, the following points are made:

- a) The resubmitted scheme does little to address the original reasons for refusal.
- b) None of the documents submitted with the application satisfactorily address an adequate justification for a new dwelling in this location.
- c) The revised proposal does not address the issue of massing.
- d) This proposal cannot be considered to be an infill development.
- e) The proposal seeks to make efficient use of the land but does not take into account what is appropriate for the surrounding local built and natural environment.
- f) The proposal overlooks nearby properties.
- g) Concern that the agent was given positive pre-application advice.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2, S6, H1, H19, SD1, BNE1, BNE4, INF1, INF2
- 1998 Local Plan (saved policies): Saved Housing Policies 5 and 8; Environment Policy 1;

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1, BNE5.

National Guidance

- National Planning Policy Framework (NPPF) 6-10, 12, 14, 17, 29, 49, 53, 55, 56, 57, 64, 186, 187, 206
- National Planning Policy Guidance (NPPG) ID 26 Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of development including five-year housing land supply and sustainability, including recent appeal decision
- Design and character
- Residential amenity
- Highway matters

Planning Assessment

Principle of Development

Planning permission has previously been granted on the application site for the change of use from agricultural land to domestic use and the erection of a detached building for use as a garage with ancillary room above (9/2013/0666). The garage was intended, at that time, to serve the adjacent barn conversion. However, since then an appeal against the refusal of an application for the erection of two dwellings on a site fronting Common Lane and located some 40m northwest of the site has been allowed. A comparable appeal decision is a material consideration for the purposes of determining an application for similar development under similar circumstances and this is discussed in more detail in the paragraphs below.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

Paragraph 14 of the NPPF states: *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking”*. The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission, unless:

- *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *Specific policies in the NPPF indicate development should be restricted”*.

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.

Whilst the site lies outside the defined settlement boundary insofar as the adopted 1998 Local Plan is concerned, planning permission has previously been approved for its change of use from agricultural land to a domestic use. The rear gardens of The Birches and Bank House, two properties to the immediate north of the application site, have been extended into the countryside, following the grant of approval in 1994 (9/1994/0740). A condition of that consent restricts the erection of domestic buildings, gates, walls, fences and other means of enclosure, in the interests of protecting the open character and appearance of the area. The western boundary of the application site continues the extended boundaries of those two properties.

The LP2 reviews the settlement boundaries identified within the 1998 Local Plan (LP98) as the settlements have changed, and in some places significantly since the boundaries were originally drawn. The changes have occurred through growth that has taken place, or growth that is expected to take place through the plan period. The application site therefore currently sits outside the adopted settlement boundary for Sutton on the Hill and as such is contrary to policy H5 of the 1998 Local Plan. However, it is a material consideration that the settlement boundary is proposed to be changed through the Local Plan Part 2 Pre Submission version which was agreed through the Environmental and Development Services Committee on 5th January to be submitted to the Secretary of State subject to Full Council consideration on 19th January. Paragraph 216 of the NPPF provides guidance as to the weight that can be attributed to emerging policies, which is based on three criteria; the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the pre-submission plan to the policies in the Framework. It is therefore considered that the plan is at an advanced stage with no specific objections to the Sutton on the Hill boundary received and is consistent with the NPPF. Therefore significant weight can be attached to the policy.

In determining the application in 2013 for the change of use from agricultural land to domestic use, a view was taken that as the adjacent properties enjoy relatively long rear gardens, it would be somewhat anomalous for the boundary of the village to have an irregular shape. Notwithstanding the consideration in 1994 that the open character of the adjacent countryside should be maintained, the permission in 2013 also allowed for the construction of the garage building, which, in itself, restricts the open character to the rear of the application site to some degree. The garage subject of the 2013 permission has been substantially completed but is not in accordance with the submitted plans. A retrospective application (9/2016/0553) was submitted and approved, the plans submitted in support of this application shows that the garage as built includes a first floor annexe/store, rear-facing roof-lights and the external flight of steps. The steps have not yet been constructed. Notwithstanding this, the scale and form of the previously-approved garage are in no way comparable to the proposed dwelling, the subject of this application.

Emerging policy SDT1 in the Local Plan Part 2 which has reached pre-submission stage sets out the settlement boundaries for settlements within the district. Within settlement boundaries development will be permitted where it accords with the development plan. Sutton on the Hill's revised settlement boundary includes the application site, the rear gardens of The Birches and Bank House and the appeal site on Common Lane. Given the emerging policy background and the above planning history of the application site and that of the neighbouring properties, it can be concluded that the principle of some kind of residential use of the site has been accepted, although conditions on both the 1994 and 2013 consents removed permitted development rights for incidental buildings, structures or enclosures without the prior grant of planning permission, as the Local Planning Authority needed to ensure the character of the settlement and the surrounding area was safeguarded and protected. It is considered, therefore, that whilst the principle of the change of use to a use associated with existing residential properties was, and is, acceptable, so too would the development of a standalone dwelling being within the proposed settlement boundary set out in SDT1, subject to meeting other policies in the development plan.

The Inspector for the appeal for the two dwellings fronting Common Lane acknowledged in his decision letter that the future occupiers of the properties would need to travel to larger villages or towns for a full range of shops, services and employment opportunities. Given the rural nature of the site it is likely that the majority of those visits would be by car, as it is for existing residents of the village. The Government recognises, at paragraph 29 of the NPPF that opportunities for sustainable transport options will vary from urban to rural areas. In this context the proposal would result in a modest increase in car journeys but no evidence was presented at the appeal to suggest that this increase would be significantly detrimental in environmental terms.

The current application should be assessed in light of the above comments, which are relatively recent in planning terms (28th January 2015) in that the proposal is for a single dwelling which would result in a modest increase in car journeys and therefore would not impact significantly in environmental terms with regard to the increase in car journeys.

Paragraph 7 of the NPPF identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The proposal would have small economic and social benefits resulting from:

- Direct and indirect employment opportunities;
- Economic output as a result of the employment opportunities;
- Value of the development to the construction industry;
- Expenditure from future occupiers;
- New Homes Bonus; and
- Council Tax revenue.

In order to be truly sustainable, however, the proposal has to be fully acceptable in environmental terms, including its impact on the existing built form of the settlement and its scale and massing in relation to existing development. For the reasons explained in the following section it is considered that the proposal does comply with the environmental role of sustainable development and, as the three roles are mutually dependent and the economic, social and environmental gains should be sought jointly and simultaneously (paragraph 8 NPPF), the proposal cannot be considered to be a truly sustainable form of development.

Design and character

With regard to the overall character of the settlement, Sutton on the Hill comprises an eclectic mix of dwelling types, styles and ages, the majority of which are set within large plots and arranged in a fairly loose form but most having a direct relationship with the surrounding road network, such that the village has a predominantly linear form. Over time some existing buildings have been converted leading to separate dwellings that do not have a direct relationship to the road network. Whilst the proposal would not be the only dwelling within the village to be located away from the road network, it would be the first newly constructed dwelling without its own road frontage. However, the fact that the proposal would constitute back land development is not, in itself, a reason to refuse the application, particularly as amenity issues have been addressed and many Planning Inspectors in the past have considered that such sites are classed as infill. Indeed, the incremental change of use of other buildings to dwellings has already changed the character of the settlement.

Whilst the property has a smaller area of amenity space than many of its neighbours, the rear garden, which looks out directly on to agricultural land, is adequate in terms of size being approximately 22m x10m with the house 7m away from the western boundary at its closest point. The proposal is designed to appear as a farmhouse with attached outbuildings and succeeds in reflecting the design advice provided by officers. It appears as part of the group of buildings within its immediate surroundings. Its overall appearance from the west would appear as a farm complex viewed against the existing edge of the settlement. Whilst the building has a smaller plot than the surrounding large houses the open aspect to the west gives the proposed dwelling sufficient space in which to appear much more spacious and therefore the proposal is not considered to have a detrimental impact on the existing

open and green character and built form of the village and the surrounding area and therefore conforms with Policy BNE1 and the design objectives of the NPPF.

The design was an improvement over the previously submitted scheme which reflected the discussion that had taken place during the previous application. However, in line with paragraph 187 of the NPPF negotiations have resulted in the submission of the revised scheme, removing the dormer windows which were considered out of character. These have been removed and the proposal would appear as an, albeit tall, two storey dwelling with attached single storey elements. The retained existing double garage and the two storey element would both have rooms in the roofspace but would appear as single and two storey accommodation. This revised proposal expresses a stronger relationship to the existing adjacent barn conversion, which is a single storey building of simple design with well-proportioned openings set in reveal and low, corbelled eaves. Traditional features, such as arched windows and door heads and corbelled eaves have been included within the amended scheme.

The predominant design within the settlement is 2 storeys, although Fieldgate Farmhouse on Dish Lane is part 2½ storeys. When seen in its immediate context the proposed dwelling would be large but not out of character with its immediate neighbours and is not considered it would dominate its nearest neighbours but be complementary to it. It is therefore considered that the proposed dwelling would be in keeping with the traditional built form of this part of the village.

Residential amenity

With regard to the prescribed minimum distances between new and existing dwellings, advice in the adopted SPG, Housing Design and Layout, states that:

“In order to protect existing dwellings from overbearing and to protect outlook, the blank/non-habitable elevation of a proposed two-storey property should not breach the minimum distance within the sector of view of the relevant ground floor primary windows of the existing property”. ... “For dwellings of three or more storeys, greater distances of the order of 20% more will be required based on the particular merits of the proposal”.

The closest residential property to the application site (at 5 metres) is the converted barn, also in the ownership of the applicant, which has a living room window facing the dwelling. However, the relationship between the living room window of the barn conversion and the ground floor sitting room window and first floor bedroom window of the proposed dwelling are such that there is unlikely to be any privacy issues. In any event, as the window of the barn conversion is a secondary window, it does not fall to be assessed by the distance guidelines but rather on its merits.

The new dwelling would be 20m distant from the rear boundary of Fieldgate House and 39m from the house itself. The two and a half storey element of the proposed dwelling would be some 46m – 50m distant from Fieldgate House and some 50m – 52m from The Birches. The highest minimum distance between habitable room windows prescribed in the SPG is 21m. Even allowing for an increase of 20% above those minimum distances for a development of more than 2 stories in height, (i.e. an

additional 4.2m), the distances between the existing dwellings and the proposed dwelling would be well within the prescribed minimum distances.

The internal space has been designed so that only one habitable room window (the first floor bedroom on the east side) would overlook the rear garden of the barn conversion. However, this is 12 metres from the boundary and would be partially obscured by the ridge of the single storey element of the new house. No habitable windows would directly overlook adjoining gardens from the remaining first and second floors, although, owing to the height of the proposed dwelling (9.3m) and at 2 metres from the boundary, it would impact on the rear garden of The Birches and result in a sense of enclosure to that part of the rear garden area.

Ground floor windows facing The Birches, serving the kitchen and multi-purpose room, could be screened by boundary treatments, details of which would be required by condition. The first floor windows would serve en-suite rooms, which are not habitable rooms as prescribed in the Housing Design and Layout SPG. It is usual for the windows of en-suite rooms to be obscure glazed, although this would be secured by condition. The bedrooms in the roofspace would be served by rooflights on the opposite elevation from the neighbour. It is considered, therefore, that there would be no adverse impact on the amenities of neighbouring residents relating to overlooking and loss of privacy.

Highway matters

The County Highway Authority has acknowledged that the existing situation with regard to visibility onto Marlpit Lane is not ideal. However, given that the proposal is for a single dwelling and that the increased use of the access is therefore likely to be modest, no objections have been made to the proposal on highway safety issues, subject to the parking and turning area being made available prior to occupation. It would be difficult, therefore, to sustain a reason for refusal based on highway safety grounds.

Miscellaneous issues

- With regard to precedent, as each planning application proposal is assessed on its own merits there is no case to refuse the application on precedent.
- As already stated an appeal decision, where there are similarities to a planning proposal, is a material consideration that carries some weight in the determination of other applications;
- Neither the Environment Agency nor the Lead Local Flood Authority are required to be consulted on this scheme. However, no comments were received from the EA on the previous proposal and the LLFA commented as follows: *Derbyshire County Council Flood Team recommends that surface water attenuation is provided by a Sustainable urban Drainage Scheme (SuDS) and reminds the LPA of its responsibility to ensure arrangements are in place for ongoing maintenance of drainage systems.* An informative is therefore set out accordingly.
- The consultation period for amended/revised plans is prescribed as 10 days as set out in the Council's published Statement of Community Involvement as approved by the Council.

Overall conclusions

As with many planning decisions, a balance needs to be achieved between the contribution that a proposal would make towards the Council's housing land supply and any harm that would ensue as a result of the development. Whilst the Council has a five-year housing land supply, the revised settlement boundary as set out in the emerging Local Plan Part 2 defines the application site as within the settlement boundary and therefore there is a presumption in favour of sustainable development in favour of the proposal subject to other policies in the development plan. The principal of the proposed dwelling is considered to be acceptable as the proposal is within the proposed settlement boundary, designed in such a way as to take account of its surroundings and not considered to have an adverse impact on the open character and appearance of the area being designed to appear as part of a group of farm buildings consistent with the appearance of the character of this part of the village. Whilst the proposal was previously refused on grounds of scale and massing and adverse impact on the character the settlement, being predominantly linear, the revised proposal has addressed the largely addressed issue of scale and massing and highlighted the issue of settlement pattern sufficient to cast doubt on the reasons for refusal of the previous scheme. This proposal therefore constitutes a sustainable form of development in relation to the existing pattern of development. Additionally, it is considered the amended design reflects the character and scale of existing development, both in its immediate setting or within the wider settlement. For these reasons Members are requested to approve the application as per the recommendation.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing NO/838-01 Rev B, received on 09 January 2017; drawing NO/838-02 Rev A, received on 08 December 2016, and plan/drawing NO/838-03 Rev A, received on 08 December 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.

3. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

4. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the submitted application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary 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 appearance of the area.

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

8. 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 interests of the appearance of the building(s), and the character of the area.

9. 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 dwelling(s) hereby

permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling(s) and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

10. 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 windows hereby approved serving the two en-suite bathrooms at first floor level in the north elevation shall be glazed in obscure glass and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

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

2. Derbyshire County Council Flood Team recommends that surface water attenuation is provided by a Sustainable urban Drainage Scheme (SuDS).

07/02/2017

Item 1.3

Ref. No. 9/2016/0545/FM

Applicant:
Mrs Judy Wooley
The Old Forge
Heath Top
Church Broughton
Derby
DE65 5AY

Agent:
Mr Eric Lee
The Stables
Robinsons Hill
Melbourne
Derby
DE73 8DJ

Proposal: THE ERECTION OF TWO DWELLINGS AT THE FORGE BOGGY LANE HEATHTOP DERBY

Ward: HILTON

Valid Date 24/06/2016

Members will recall deferring determination of this case to enable a site visit to take place. The report below remains the same as presented previously with the exception of those *amendments in italics*.

Reason for committee determination

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

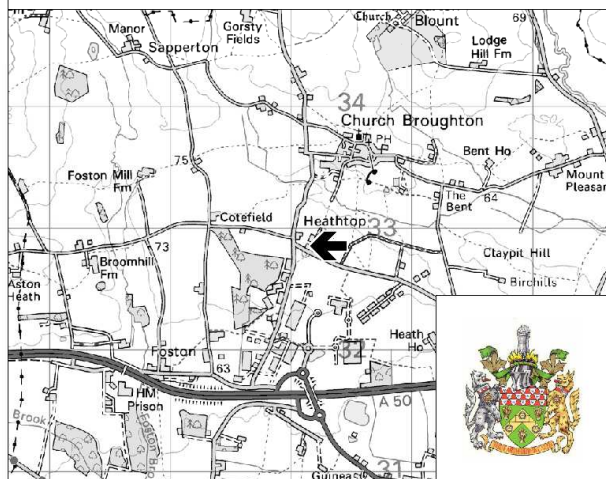
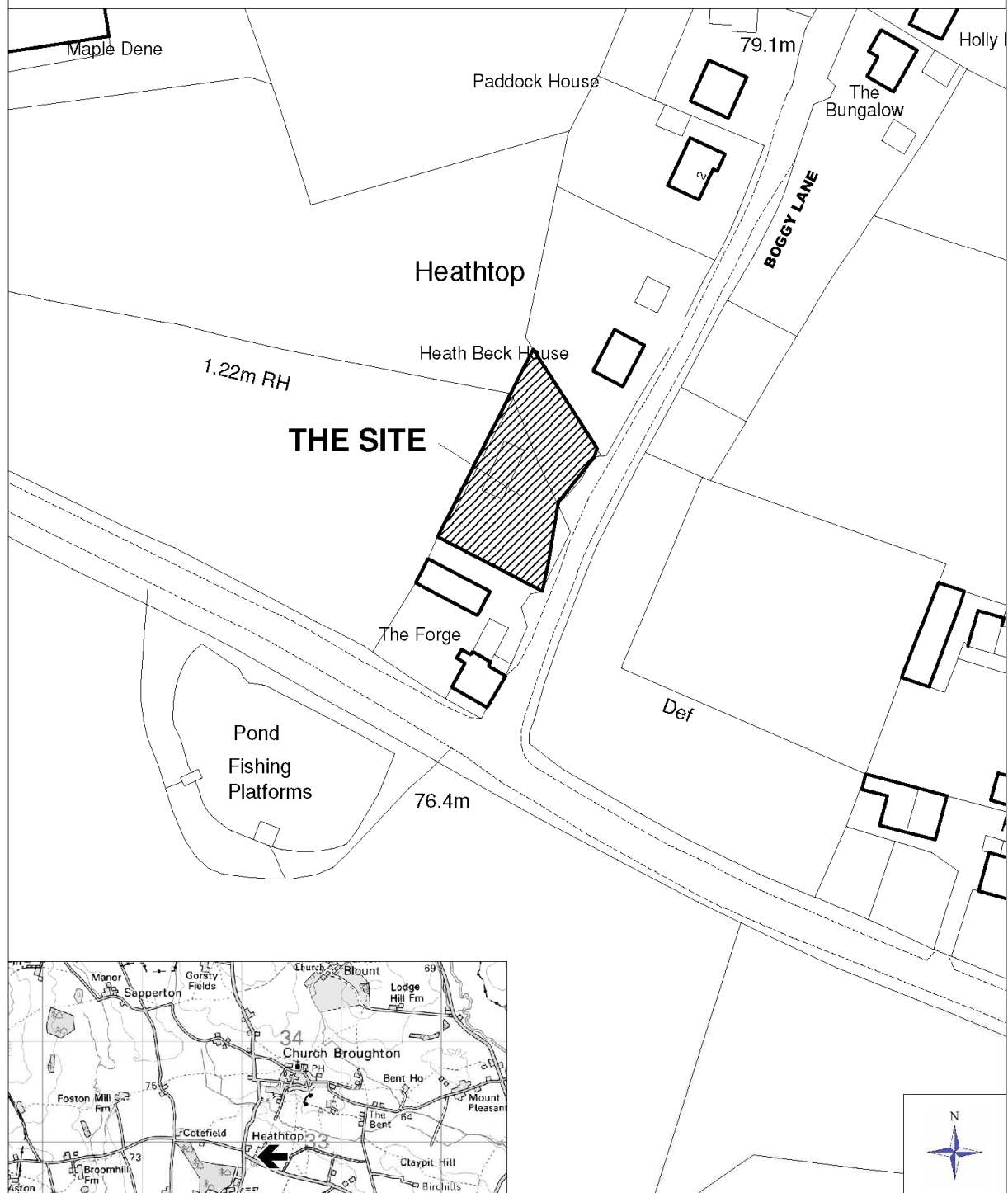
Site Description

The site is located to the south of Church Broughton in a small linear group of dwellings known as Heathtop on Boggy Lane. It is within the existing curtilage of the property The Forge which faces onto Woodhouse Lane. The land is to the north east of the existing property and it is gravelled, enclosed by fencing and there are existing stables in the north western corner and garage to the south west.

Proposal

Planning permission is sought for two detached dwellings that would face onto Boggy Lane. Two storey 4 bedroomed properties are proposed utilising the roof space and including an integral garage. *Each property would also have two external parking spaces*. The dwellings would have gabled roofs with a gable feature on the frontage and includes traditional detailing such as stone kneelers, copings and chimneys. Generous garden areas are included in the plots.

9/2016/0545 - The Forge, Boggy Lane, Heathtop, Derby DE65 5AR



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Applicants' supporting information

None

Planning History

9/2008/0828 – Outline application (all matters reserved except for access) for a detached bungalow, Refused 13/10/08

9/2005/1140 - The erection of an extension and a conservatory, Granted 1/12/05

Responses to Consultations

Foston and Scropton Parish Council are concerned that the 3 storey dwellings would not be in keeping with a rural scheme.

Church Broughton Parish Council state that any approval should ensure the height of properties do not exceed existing properties, it should be for residential only and not industrial/ farming uses and no vehicles should park on Boggy Lane as it is narrow.

The Highway Authority has no objection in principle, as given the nature of Boggy Lane and the surrounding roads, all of which are of limited width with no footways it is likely that vehicle speeds are relatively low. The adopted public highway should be taken out of the red line. Conditions are recommended in respect of the access visibility, parking and restrictions on the use of the garages.

The Council's Contaminated Land Officer recommends a ground gas prevention condition.

The Minerals Authority has confirmed that the proposal would not adversely impact the minerals safeguarding interest.

Responses to Publicity

Six letters of objection have been received raising the following concerns/points:

- a. The proposed houses are too tall and out of keeping.
- b. The houses would be overbearing and would affect the privacy of neighbouring properties.
- c. The proposed passing bay is grass verge is owned by the Council and would encourage parking of vehicles.
- d. The 3 storey dwellings are too close to each other.
- e. The windows in the northern side of Plot 2 would overlook into the rear of the adjacent property and garden area.
- f. The heights of neighbouring properties are lower than the proposed dwellings.
- g. Highway land at the site frontage is outside the control of the applicant.
- h. The bus stop is not located where it is shown on google maps and is further away.
- i. The site is not in a sustainable location with future residents reliant on cars.
- j. Stonework is not in keeping with the area as existing properties are red brick or render.

- k. A section is required to justify that a bedroom can be achieved in the attic space.
- l. A restriction on the ridge height should be placed on any permission.
- m. The proposed tarmac passing bay would destroy the 'country lane' appearance and character of the lane.
- n. An additional area of land to the north west is also owned by the applicant but is not within the blue line.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1:
S1 (Sustainable Growth Strategy)
S2 (Presumption in Favour of Sustainable Development)
S4 (Housing Strategy)
H1 (Settlement Hierarchy)
SD1 (Amenity and Environmental Quality)
BNE1 (Design Excellence)
BNE4 (Landscape Character and Local Distinctiveness)
INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies):
H8 (Housing Development in the Countryside)
EV1 (Development in the Countryside)
EV9 (Protection of trees and woodland)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2:
SDT1 (Settlement Boundaries and Development)
BNE 5 (Development in the Countryside)
BNE7 (Trees, Woodland and Hedgerows)

National Guidance

- National Planning Policy Framework (NPPF) 7, 11, 14, 17, 32, 49, 55, 56, 58, 121
- National Planning Policy Guidance (NPPG) 26, 50

Local Guidance

- SPG Housing design and Layout

Planning Considerations

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

- Principle of Development

- Residential Amenity and Impact on the character of the area
- Highways Issues
- Planning Balance

Planning Assessment

Principle of development

The site is located within the countryside within a linear development of houses along Boggy Lane, Heathtop. An assessment of the relevant development plan policies follows:

Saved Local Plan Policy H8 states that outside settlements new housing development will be permitted provided that it is necessary to the operation of an established, viable, long term rural based activity; a countryside location is necessary; it is well related to existing farm buildings and the size of the dwellings is commensurate with the functional requirement of the activity.

In the refusal in 2008, the site was assessed in relation to Housing Policy 8 alone as Heathtop was not considered to be a rural settlement as referred to in Housing Policy 6 where infilling was acceptable. It was thus classed as countryside whereby there was no principle for the bungalow proposed. The policy basis has changed since this decision and as such the adopted policy and emerging policy below now apply.

Local Plan Policy H1 defines the settlement hierarchy and the site would be classed as within a rural area where only development of limited infill and conversions of existing buildings would be acceptable.

Emerging Local Plan Policies SDT1 relates to settlement boundaries and states that outside settlement boundaries land will be considered as countryside and BNE5 development in the countryside reiterates this. Section A of this policy states that planning permission will be granted in the countryside where the development is 'considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing'.

The proposal is infilling a gap between existing properties for two dwellings which complies with Local Plan Policy H1 and the Emerging Policy BNE5 and is thus considered acceptable in principle.

Residential Amenity and Impact on the Character of the Area

Local Plan Policy BNE1 relates to design excellence and outlines specific criteria that are required when designing new developments. Criterion e), g) and h) are relevant to this proposal and require developments to: create places with a locally inspired character that respond to their context, be visually attractive and respect important landscape, townscape and historic views and vistas and should not have an undue adverse effect on the privacy and amenity of existing nearby occupiers.

NPPF paragraph 58 requires that developments: function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place, optimise the potential incorporating green spaces, respond to local character and reflect the identity of local surroundings, create safe and accessible environments and are visually attractive.

Local Plan Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. NPPF paragraph 17 requires a good standard of amenity for all existing and future occupants.

The neighbouring property to the north east is a two storey property which has two non-habitable windows on the gable end adjacent to this boundary. An existing 1.5m hedge encloses the property's garden and there are some 8m high trees providing screening. The side gable of plot 2 would be adjacent to this property albeit set back 5.8m further back from the road than the neighbouring property. Bedroom windows were originally proposed on the end gables of the proposed properties serving the master bedroom within the roofspace, with one on the north eastern elevation on the second storey. These represented an overlooking concern and amended plans have been received which have removed these windows. Thus a secondary dining room window on the ground floor and bathroom above are proposed on the north eastern elevation *and an obscure glazing condition is therefore recommended*. These windows are not considered to cause a significant amenity impact in relation to this property.

The Forge to the south west is within the same ownership as the application site. The end gable of Plot 1 would be 6.5m from this property's garage and 19.5m from the conservatory to the rear which is considered an acceptable relationship. The proposal is therefore considered to accord with Local Plan Policies BNE1, SD1, NPPF paragraph 17 and the space standards within the SPG.

In relation to character, the proposed dwellings are considered to be a sufficiently high quality design with traditional features. Their scale and mass is considered to be in keeping with the character of this part of Boggy Lane which is two storey properties in sizeable plots of differing designs set back from the road frontage. The proposal is considered to respond to its context in line with Local Plan Policy BNE1 and NPPF paragraph 58.

There are mature trees to the west of the site which are a sufficient distance away not to be a constraint to development, however, there are some trees within the garden area of the neighbouring property which would require assessment of RPAs prior to any building works to avoid any damage and this can be a condition of any permission.

Highways Issues

Local Plan Policy INF2 states that planning permission will be granted for development where travel generated by development should have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It requires that appropriate provision is made for safe and convenient access to and

within the development and car travel generated is minimised. NPPF paragraph 32 requires that safe and suitable access to the site can be achieved for all people.

The original red line location plan has been amended to take into account the land on the frontage of Boggy Lane which is adopted public highway. The red line now abuts the public highway and indicates *two* external parking spaces per dwelling (in addition to the garage spaces proposed) and as such the Highway Authority has no objection subject to conditions. A local bus route 229 has a stop opposite to the Boggy Lane junction with Woodhouse Lane which links the site to Church Broughton, Scropton, Hatton, Hilton and Etwall and thus the site is accessible by another means of transport.

The Planning Balance

In consideration of the three dimensions of sustainable development outlined in paragraph 7 of the NPPF, in terms of the economic and social role, the proposal would provide two dwellings that would contribute to housing supply and provide construction jobs in the area. The site would also generate Council tax and New Homes Bonus. Heathtop is in a rural area, however, the application site is located close to a bus stop with a bus route into Church Broughton, Scropton, Hatton, Hilton and Etwall and thus some accessibility credentials as residents would not be solely reliant on the private car. The proposal would to some degree maintain the vitality of the rural community through supporting local services. The benefits of the scheme set out above, including the provision of housing to boost the supply in accordance with the Framework, must be afforded some weight in favour of the proposal. The sympathetic traditional design and scale is considered to be in context with the character of the area and there are no significant adverse impacts on neighbouring properties. The proposal is thus considered to constitute sustainable development in terms of the three strands set out in the Framework.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with amended Location Plan received on the 20th October 2016, revised site plan 3 received on the 25th January 2017, amended drawing 1 floorplans received on the 20th December 2016 and amended drawing 2 received on the 20th December 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor

amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

4. Before any works involving the construction of any dwelling commences precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

5. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

6. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), prior to the erection of boundary treatments plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

7. Before any works involving the construction of any dwelling, the existing vehicular access to Boggy Lane shall be modified in accordance with the amended site plan received on the 4th November 2016, and provided with visibility sightlines extending from a point 2.4m metres from the carriageway edge, measured along the centreline of the access to the extremities of the

site frontage abutting the Boggy Lane highway in each direction. The land in advance of the visibility sightlines shall be retained 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: In the interests of highway safety.

8. Prior to the occupation of any dwelling the space shall be laid out within the site in accordance with the revised site plan received on the 4th November 2016 for one external car parking space per dwelling.

Reason: In the interests of highway safety.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwellings hereby permitted shall not be altered, enlarged or extended without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, the site area and effect upon neighbouring properties and/or the street scene.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is available.

11. Before any works involving the construction of any dwelling commences a scheme of landscaping shall be submitted to and approved by the Local Planning Authority, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

12. 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 windows hereby approved serving the bathroom and dining room on the south western elevation of Plot 1 and the bathroom and dining room windows on the north eastern elevation of Plot 2 shall be glazed in obscure glass and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

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

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

4. For assistance in complying with planning condition 4 and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.southderbys.gov.uk/environment/pollution/contaminated_land/default.asp. The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
- CLR 11: Model Procedures for the Management of Contaminated Land.
- CLR guidance notes on Soil Guideline Values, DEFRA and EA.
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
- BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

07/02/2017

Item **1.4**

Ref. No. **9/2016/0507/U**

Applicant:
J D Weatherspoons
The Wethercentre Plc
Reeds Crescent
Watford
Hertfordshire
WD24 4QL

Agent:
Keith Paine
KD Paine & Associates Ltd
Adur Business Centre
Little High Street
Shoreham By Sea
BN43 5EG

Proposal: **PROPOSED PAVEMENT CAFE TO THE FRONT OF THE BUILDING**
 CONSISTING OF FOUR TABLES AND EIGHT CHAIRS AT SIR
 NIGEL GRESLEY MARKET STREET SWADLINCOTE

Ward: **SWADLINCOTE**

Valid Date **11/10/2016**

Members will recall deferring the determination of this case pending an opportunity for the Committee to visit the site. There are no changes to the report since then.

Reason for committee determination

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

Site Description

The Sir Nigel Gresley Public House is located on the Delph in Swadlincote town centre and is adjacent to the Town Hall.

Proposal

Consent is sought for the creation of an external seating area on the public footpath comprising screens with four tables and eight chairs outside the existing conservatory area. This would therefore, increase and extend the existing outdoor seating area that is currently used to the front of the premises.

Applicant's supporting information

Design and Access Statement

9/2016/0507 - SIR NIGEL GRESLEY PUBLIC HOUSE, MARKET STREET, SWADLINCOTE



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The Design and Access Statement confirms that the proposal relates to the erection of screens with four tables and eight chairs on the pavement area outside the existing conservatory building. The existing scale and character of the building would remain unchanged. The proposed screens would have demountable stainless steel supports, detachable fabric screens, of which the colour is yet to be chosen.

Planning History

9/2007/0420 – The formation of a pavement café seating area to the front of the building, to include freestanding demountable screens and removable furniture – temporary permission – 10/07/2007

9/2008/0856 – The change of use to seating area of land to the frontage of the Sir Nigel Gresley – temporary permission – 09/12/2008

9/2010/0111 – The change of use to seating area of the land to the frontage of Sir Nigel Gresley (permanent) – Approved with conditions – 29/07/2010

Responses to Consultations

The Environmental Health Officer has no comments to make.

The Contaminated Land Officer has no comments to make.

The Crime Prevention Officer (Derbyshire Police) notes that whilst he has no objections in principle to street cafes, there has been some concern expressed regarding this site as it is within an area frequented by street drinkers, so there is a potential for misuse of the proposal, also nuisance to users. Being sited so close to the public highway, on a corner plot where sight lines are limited thus limiting the effective management of the area, the adequate separation of licenced and open public areas would be difficult. He considers that the proposed demountable screens offer more demarcation than significant boundary. It is expected that subsequent to any planning approval, applications for a street café licence and also premises licence variation under the Licensing Act would follow. It would therefore, be appropriate and practical to set a general condition requiring the applicants to provide risk commensurate crime deterrent measures in consultation with the statutory bodies who would be involved in subsequent matters.

The County Highways Authority notes that the site has been subject to two previous similar applications (9/2008/0856 & 9/2010/0111), of which the same comments still apply. There are no objections to the application. However, the applicant is reminded that they will need to apply to the County Highways Department for a Pavement Café License.

The Council's Licensing Department has raised concerns over this proposed extension to the outside street pavement café to the front of the Sir Nigel Gresley with regards to public safety, health & safety and crime & disorder:

- The positioning of the stone blocks/bollards on The Delph coupled with the positioning of the four tables and eight chairs including barriers to denote the street pavement café would reduce considerably the thoroughfare at this

particular busy and well used pedestrian walkway. Narrowing it any further would lead to a pinch point causing problems for parents with pushchairs, wheel-chair users and pedestrians in general.

- These tables and chairs are to be positioned adjacent to, in very close proximity to and covering the following;
 - There are two outside down-spout drainpipes with drains positioned below them. One comes down from the orangery adjacent to the building line and the other comes down from the main roof adjacent to the building line of the main premises. These are situated directly adjacent to where it is proposed to position three tables and six chairs.
 - The tables will be blocking the two air ventilation blocks for the orangery.
 - The proposed street café is also positioned adjacent to the fire exit doors for the orangery, with the fire doors opening out straight onto and towards the tables and chairs.
 - There is a slight gradient at this point which leads down from the road to the proposed street café.
 - The proposed street café would extend beyond the main building line of the premises if barriers are incorporated.
- Members of the public already utilise the blocks to sit on and converse with one another at this particular point and to add these tables and chairs at these points is going to add to the bottleneck leading to a public safety issue where pedestrians would then either push through or enter the vehicular road way to get past.
- Recently there has been an increase in Anti-Social Behaviour in the area, in particular a group of street drinkers. Therefore if the street drinkers start congregating at this particular point/area in order to converse with patrons from the pub utilising the street café area there may be an increase in the calls for Anti-Social Behaviour intervention coupled with a fear factor amongst members of the public when they see large groups congregating.
- The present street café, adjacent to the front entrance/exit, does not have any other street furniture nearby which therefore enables the staff from the premises to control/police this area. Similar control/police this new area in the same manner would not be possible.
- The impression of Swadlincote that is being set for visitors and residents alike.

The Coal Authority has no objections as the development is exempt from needing a Coal Mining Risk Assessment.

Responses to Publicity

Councillor Sandra Wyatt has raised concerns that the proposal would further encourage people to sit with alcohol from early morning till late at night.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development, S6 (Sustainable Access), S7 (Retail), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), BNE2 (Heritage), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF6 (Community Facilities).
- 1998 Local Plan (saved policies): EV12 (Conservation Areas) and S1 (Existing Shopping Centres).

Emerging Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution), BNE10 (Heritage) and RTL1 (Swadlincote Town Centre).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34, chapter 7 (Requiring good design) and paragraphs 128-137 (Conserving and Enhancing the Historic Environment).
- National Planning Practice Guidance (NPPG) ID26 (Design)

Local Guidance

- Swadlincote Conservation Area Character Statement
- Display of Advertisements SPG
- Swadlincote Townscape Heritage Scheme Conservation Area Management Plan and Article 4 Direction

Planning Considerations

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

- Appearance of the screens and chairs.
- Highways concerns
- Issues of potential anti-social behaviour
- Nature of the proposed use
- Other items

Planning Assessment

Appearance of the screens and chairs

The creation of seating to the front of the building has historically been supported in terms of the proposed appearance of the frontage and the incorporation of seating into the public realm in the town centre. There has been no objections raised by the

Conservation Consultant and the additional seating area would not result in unnecessary clutter amongst the street scene (maintaining a 2.3m gap between the seating area and the shared space) or a harmful visual impact within the Conservation Area. The proposed seating area would sit forward of the conservatory building line but it would not fall forward of the main building line. On the basis of this, the proposal would therefore comply with policies BNE1, BNE2 and BNE4 of the Local Plan and policies BNE9, BNE10 and RTL1 of the Pre-Submission Local Plan.

Highways concerns

Concerns have been raised regarding a “pinch point” due to the positioning of the seating area. Whilst the positioning of the proposed seating area would create a narrowing effect of the available space for pedestrians, this would result in the narrowest area of pavement being 2.3m in width which would still remain wide enough for the safe and suitable access of double pushchairs, wheelchairs and mobility scooters to pass the site and would not result in a disadvantage to pedestrian users. The pavement is also located adjacent to a shared space, with the vehicle movement on the carriageway being subordinate to pedestrian movement. The standard width of a footway is generally 1.8m in width, of which, this could serve as the footway adjacent to a classified road. On the basis that the proposal would result in the narrowest point of the footway being 0.5m wider than a standard footway and would be adjacent to a shared space. As such it would appear that a technical case on highway safety grounds would be difficult to sustain especially given the lack of objection from the County Highways Authority.

Issues of potential anti-social behaviour

Consent was previously granted under planning application 9/2007/0420 for the erection of outdoor seating across the whole frontage of the building on a temporary basis (including the area currently proposed). Whilst this consent was not implemented, approval was further granted in 2008 for outdoor seating across the front of the property under planning permission 9/2008/0856, these works were later given full permission under planning application 9/2010/0111 and are currently used today. On the basis of this, it would seem that the principle of the development has already been established as being suitable and there has been no objection raised by either County Highways or Crime Prevention that have altered the situation since these earlier dates.

Concerns have been raised regarding a likely increase in the level of anti-social behaviour that could be experienced, as the area already experiences instances of outdoor drinkers and there are concerns that this issue would be exacerbated further by the development and that it would be located at a pinch point on the highway. However, there have been no objections raised by the Crime Prevention Officer with regard to the application, subject to a condition to be added where the applicant must provide risk commensurate crime deterrent measures (such as CCTV) in consultation with the statutory bodies who would be involved. On the basis that the Crime Prevention Officer has not objected to the application, it would not appear possible to sustain a refusal against this expert advice on the likelihood of anti-social behaviour.

Nature of the proposed use

If planning permission were to be granted for the erection of the tables and chairs on this site, it would be subject to a Pavement Café License being granted by Derbyshire County Council and subject to a change in the license of the existing premises.

Historically, all of the new areas of proposed seating that have been approved at the Sir Nigel Gresley Public House have always been granted on a temporary basis for up to a year to assess their impact. Both applications 9/2007/0420 and 9/2008/0856 were granted for a period of one year. Planning application 9/2010/0111 was granted permanently for a smaller area of seating after planning application 9/2008/0856 had been implemented and monitored. On the basis of this, historically, all new outdoor seating areas have been approved for an initial temporary period to assess their impact before permanent permission being granted. It would seem reasonable for the same condition to be attached to this application to enable a monitoring period to take place.

Other items

In addition, it has been noted that the proposed seating area would be positioned adjacent to the existing conservatory's air conditioning vents and downpipes. Whilst the applicant may wish to amend this seating area in the future if this inconveniences customers, it would not be possible to withhold permission on these grounds.

Conclusion

On the basis that there have been no objections raised by the County Highways Officer or the Crime Prevention officer, and that this is in combination with the historic approvals of the use of outdoor seating previously being granted at this location in 2007, 2008 and 2010, it would seem that the principle has previously been established would make it very difficult to withhold permission on these grounds.

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

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 31 January 2018 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

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

2. This permission shall relate solely to the plans and details submitted with the application; Plan/drawings PLO2 and PL03a unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.

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

3. Notwithstanding the submitted details, the screening shall not be erected until a detailed specification of the screens has been submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the agreed details.

Reason: To ensure the design and materials are appropriate to the Conservation Area.

4. Notwithstanding the submitted plans, prior to the first use of the development, details of a scheme for the installation of CCTV cameras to cover the area hereby permitted and a method statement detailing risk commensurate crime deterrent measures shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first use of the area hereby permitted and retained in place.

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.

5. All furniture, screens and any other equipment associated with the permitted outdoor seating area that forms the basis of this application shall be removed from the street and shall be stored within the building between 0700 and 1700 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the public amenity and to reduce instances of anti-social behaviour. To ensure that the use is consistent in nature with the existing outdoor seating area.

Informatives:

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

2. It is necessary for the applicant to obtain the appropriate Pavement Café Licence from Derbyshire County Council(ETEnetmanadmin@derbyshire.gov.uk), and a change to the premises licence from the District Council.

07/02/2017

Item **1.5**

Ref. No. **9/2016/0917/FM**

Applicant:
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Victoria Way
Pride Park
Derby
DE24 8AN

Agent:
Mr Christopher Lindley
Dpds Consulting Group
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Vernon Gate
Derby
DE1 1UP

Proposal: **DEMOLITION OF EXISTING DWELLING (FORMER VICARAGE)**
 AND THE ERECTION OF 2 NO DWELLINGS AT 11 TWYFORD
 ROAD BARROW ON TRENT DERBY

Ward: **ASTON**

Valid Date **14/09/2016**

This application is to be considered jointly with application 9/2016/0932 below.

Reason for committee determination

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

Site Description

The application site is comprised of a single large detached dwelling (the former Vicarage) with large front and rear gardens, located on Twyford Road. The site is located both within the settlement boundary for Barrow on Trent and the Conservation Area.

The existing dwelling is set back around 30m from Twyford Road, with the existing War Memorial to the west of the site frontage. The rear garden to the dwelling is largely put to grass and forms an open space to the south of the building. The frontage is characterised by a stone wall, which also bounds the War Memorial, and a gap provides vehicular access to the site. There are a number of mature trees to the fore of the dwelling which provides a landscaped area to the setting of the memorial and in part screen the existing dwelling. To the west of the site, beyond a mixed boundary of hedgerows, trees, fencing and brick walling, lies 15 Twyford Road – a detached dormer bungalow sited with a similar set-back to the Vicarage. To the east is the Sale and Davys Primary School, with its playing field and a separate public equipped play area to the south of the school, south east of the site. A

9/2016/0917 - 11 Twyford Road, Barrow on Trent DE73 7HA



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footpath to the play area runs along the eastern boundary and extends to a private footpath access to 16 Church Lane (St Wilfreds – a Grade II Listed Building). The gardens of St Wilfreds and The Pinfold lie beyond high brick walling to the south and south east of the site.

Proposal

It is proposed to demolish the former Vicarage and replace it with two detached dwellings – one sited on a similar footprint as the Vicarage (plot 1) with the second dwelling proposed to the rear of the site (plot 2). Vehicular access is proposed from Twyford Road, with the existing access widened along with a private access drive down the eastern boundary to towards parking at the rear of plot 1 and plot 2. Plot 1 is to have a detached double garage within its rear garden, whilst plot 2 has an attached double garage.

The dwellings are proposed in a traditional style, with a number of projecting gables of varying widths and ridge heights providing for a varied roofscape to each of the dwellings, with key features gleaned from existing buildings within the conservation area. Throughout the design evolution of the scheme, careful attention has been paid to the importance of the site within the street scene and the conservation area, including reducing the scale and overall height of the buildings to reflect this sensitive location.

Applicant's supporting information

The Planning, Design & Access Statement describes the site and its surroundings, and the planning policy and legislation relevant to the proposal. The planning policy assessment mainly provides extracts from the NPPF and the local plan highlighting the need to apply the presumption in favour of sustainable development and approving planning application without delay. The Statement then goes on to summarise the technical reports undertaken, which are summarised below under each of the relevant headings.

The opportunities and constraints at the site are identified, with the main opportunity being to replace a building assessed as having a negative contribution on the special architectural and historic interest of the conservation area, with a building to make a positive contribution to the area, and the opportunity to make more efficient use of a large garden plot. The main site constraints are outlined as meeting the statutory tests of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF, ensuring an efficient use of the site, avoiding impacts on surrounding residential amenity, meeting the relevant design criteria, avoiding impacts on the safe operation of the local highway network, and ensuring that the development would not increase flood risk either on site or off site.

Overall, the proposal is considered to offer an enhancement to the character and appearance of the conservation area and the features within it, including the war memorial and front walling on the site. The style, massing, form and scale of the proposed housing are considered sympathetic to the historic fabric and local residential styles of the conservation area, and compliment and preserve its character and appearance.

The Archaeological and Heritage Assessment considers the impact of the development on the Barrow on Trent Conservation Area and a number of listed buildings in the vicinity of the site. An assessment is also carried out to determine the potential for the development to impact upon features of archaeological interest.

The existing building is considered to have a negative impact on the character and appearance of the conservation area, with the rear garden not considered to be an important open space within the area. The stone walling to the site frontage has been assessed as making a positive contribution to the area along with the War Memorial. The proposed development is considered to offer an enhancement to the character and appearance of the conservation area, with the ability to appreciate key vistas and groups of listed buildings unchanged by the development. This is as a result of the maintained set back of the frontage dwelling, with better quality materials, and design more in keeping with the area. The significance of the nearby listed buildings would not be harmed as a result of the proposed development within their setting.

There is considered to be a low/moderate potential for previous unknown archaeological features relating to prehistoric or medieval activity to be present, due to the land having been greatly disturbed by the current building.

The Highways Technical Note considers the existing highways context of the site, and confirms that pedestrian and vehicular visibility splays can be provided well in excess of the recommended design standards. In order to enhance vehicular access to the site, the access would be widened to 5.25m, with the provision of a new short length of wall along the initial length of the driveway, the provision of 2m x 2m pedestrian visibility splays, and a 'H' pavement marking across the existing dropped kerb access to restrict parking.

There has only been a single recorded accident along Twyford Road within the study area since 2010, with no trends or patterns identified which would lead to the proposed development exacerbating any existing access issues. The proposal is not considered to impact upon the safe operation of the school. Overall the report concludes that the enhanced access arrangements would provide greater accessibility, and it is considered that the proposed access is suitable to serve the development.

A Flood Risk Assessment (FRA) provides information on the flood risks associated with the proposed development and presents mitigation measures so as to ensure the proposed development is safe from flooding and that it does not increase the flood risk elsewhere. This assessment states that the site of the existing dwelling (to be demolished and replaced) is located within Flood Zone 3a, with the majority of the development site within Flood Zone 2. A range of mitigation measures are capable of implementation and these would ensure that the development would have a neutral impact on flood risk to the local area. The mitigation measures outlined in the assessment include: Raising the finished floor levels of the dwellings above the 1 in 100 year (including climate change) flood event to a level of 39.645m AOD for plot 1 and 39.49m for plot 2, providing areas for compensatory storage of flood waters, and

Ensuring the dwellings incorporate flood resilient construction and Sustainable Drainage Systems (SuDS).

The Ecological Assessment considers the presence of protected habitats and species within or adjacent to the site. The dominant habitat is amenity grassland, with some shrub and scattered trees. The site overall the site is considered to be of low to moderate ecological value. Subject the provision of a suitable landscaping scheme and mitigation outlined in the report the development should result be an enhancement to the biodiversity value of the site.

A Bat Survey and Mitigation Strategy has been undertaken following the ecological survey of the site. Daytime and dusk emergence surveys were undertaken and as a result of a high level of bat activity recorded, a dawn swarming survey was undertaken and a further dusk emergence survey. The survey results identify that the roof of the building is used as a summer bat roost used by Common and Soprano Pipistrelle bats, and as such, without any mitigation, the demolition of the building would have a high impact on Pipistrelle bats. In order to mitigate for the loss of the roost, a detailed mitigation strategy is proposed which involves the creation of a new roost in the proposed garage building to the rear of plot 1 prior to the demolition of the existing dwelling on the site, as well as the creation of further roosting features within the new buildings themselves. This is considered to adequately mitigate for the roost in the existing building.

A Tree Protection Plan and survey has been prepared to ensure that the development proposals do not adversely impact upon trees within the site which have been identified as worthy of retention.

A Construction Management Plan has been prepared and submitted during consideration of the application following discussions between the applicant and the adjacent school. This includes the following undertakings; installation of boundary security fencing, access only from the site frontage, deliveries not to take place between 08:30 -09:30 and 15:00 – 16:00, curb unloading to be kept to a minimum with vehicles revering in to the site, and contractors car to be parked within the site or within car park opposite the village hall.

Planning History

None relevant to the current application.

Responses to Consultations

The County Highway Authority has no objection subject to conditions relating to the provision of visibility splays, parking spaces and a restriction on the provision of gates within 5m of the highway boundary.

The Pollution Control Officer has no objection subject to conditions relating to the construction phase of the development.

The Environment Agency, having considered the updated FRA, has no objection subject to the mitigation measures contained within the FRA being conditioned – including minimum floor levels for the dwellings.

The County Flood Risk Team provides standing advice in respect of sustainable drainage.

The Development Control Archaeologist comments that the site is located within an area of high archaeological potential, as established within the conservation area statement. As such it is recommended that the site is subject to archaeological supervision and monitoring during the development groundworks and a condition to this effect is recommended.

Derbyshire Wildlife Trust has considered the proposals in detail, and following the receipt of updated ecological information has no objection subject to conditions. In terms of great crested newts, as the site is separated from existing ponds and ditches by roads and garden walls; the likelihood of newts entering the site is low but a precautionary approach is recommended. None of the trees on site have the potential to support bat roosts but the trees to be removed are to be done so under supervision. As a house martin nest has been identified at the dwelling, conditions requiring the works to be undertaken outside the bird nesting/breeding season and a detailed mitigation and enhancement strategy are recommended. In terms of bats within the existing dwelling, in acknowledging the presence of a summer bat roost the proposed method statement is considered to provide sufficient details to adequately mitigate for the loss of the roost though the demolition of the building.

Natural England has no comments on the proposal.

The Canal and Rivers Trust have no comment on the proposal.

Responses to Publicity

The Parish Council has raised the following concerns:

- i) the proposed demolition and rebuilding of the front wall in the Conservation Area would change the nature of this part of the village. The stone walls that are seen around large parts of the village are part of the vernacular of the settlement, the majority of them dating back to the Middle Ages. If the stone wall is to be modified they would like to see the same stone and style;
- ii) the proposed construction with the attendant noise, dust and building site language, etc., is immediately adjacent to the village primary school and would have an adverse effect upon the lives and learning of the children;
- iii) vehicle movements would be noisy and disruptive during the school day;
- iv) there is significant tree felling proposed on the site – this is out of keeping with the rest of the village where numerous mature and large trees enhance the character and views in the community;
- v) the proposed buildings are extremely large and would overwhelm the adjacent dwellings, nor are they sympathetic to the rest of this part of the village, with the site lying in the Barrow upon Trent conservation area;

- vi) if the site is to be developed by demolishing the property that is currently there, the village would benefit from the building of more, smaller, less expensive dwellings that would suit families and fit better into the architectural style of the surrounding area;
- vii) there is no mention in the application of the proposed brick or tile colours – the style of building in this part of the village is of a rich rustic red brick with dark roof tiles;
- viii) the extreme amount of proposed tree felling would have a detrimental effect upon the views in the village, and would affect the population of birds, bats and other animals that currently occupy the site;
- ix) there is no mention in the documentation that there is a right of way across the property to an area of land that lies to the south-west, nor is this pathway identified on the plans and map;
- x) the proposed 'H' line on the pavement that is proposed to restrict parking in the access would conflict with the zig-zag school signs that are in the road outside the school entrance;
- xi) the proposal to create 'bin parks' on the outside of the site would be visually detrimental to this part of the village/conservation area, and could create a hazard on the pavement at busy school times, with it more appropriate to site these inside the boundary; and
- xii) the indication from the FRA is that the buildings may be raised above the current finished floor level of the current building, and that flood water storage may be constructed on the site, having the potential to have a major detrimental effect upon the flood resilience of adjacent properties as a result of the elevation of this central site.

A total of 13 letters of objection have been received across the initial consultation and re-consultation stages, raising the following concerns/points:

- a) the Vicarage is an elegant house of its period;
- b) the centre of the village represents many different facets and periods that make-up village life through the ages and the Vicarage is central to this;
- c) impact on privacy and overlooking;
- d) the 3-storey structure is inappropriate for its surroundings;
- e) if an additional dwelling is to be appropriate this should be single storey with a wall to shield the dwelling;
- f) why has the access been designed for three properties;
- g) what would the floor levels of the dwellings be – there is no record of flooding in the area so the floor levels should not be set unnecessarily high;
- h) concern due to the impact of construction traffic, especially during school times;
- i) the dwellings could overshadow the surrounding environment and village;
- j) is there not a covenant on the property that prevents its demolition and another property to be built on the site;
- k) concern raised about the blocking of an existing right of access across the site;
- l) concern from the school governors regarding construction traffic, children walking to school, and the impact of the development on the use of the playing field;

- m) small dwellings would be more suitable to enhance the area and support the local school – recent developments of large dwellings appear to be out of place;
- n) the proposal should take the opportunity to address the parking issues on Twyford Road, with parking spaces provided on the site;
- o) the impact of the reconstruction of the front boundary wall;
- p) concern at significant tree felling;
- q) the brick and tile should be rich rustic red with dark roof tiles;
- r) impact on flood risk elsewhere;
- s) the building of two houses bigger than any other in the village (outside the historic context) right in the middle of the conservation area featuring small, rural workers dwellings is totally inappropriate;
- t) having had an application for tree works refused due to an adverse effect on the aesthetics of the conservation area, this development should be considered equally detrimental to the unique character of the conservation area;
- u) the properties would overpower, overlook and dominate the surrounding properties;
- v) no benefits by way of additional affordable housing;
- w) the proposal would directly impact on several listed buildings and monuments, as a significant visual intrusion; and
- x) the revisions to the scheme result in overlooking and more impacts on existing dwellings;

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), 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), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).
- 1998 Local Plan (saved policies): H5 (Village Development), EV1 (Development in the Countryside), EV8 (Open Spaces in Villages and Settlements), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest), EV12 (Conservation Areas), EV13 (Listed or Other Buildings of architectural or Historic Importance) and EV14 (Archaeological and Heritage Features).

Emerging Development Plan Policies

- Pre-submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

National Guidance

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

Local Guidance

- Barrow on Trent Conservation Area Character Statement (2011)
- Housing Design & Layout SPG (2004)
- Better Design for South Derbyshire (2010)

Planning Considerations

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

- The principle of development
- Design, layout and heritage
- Highway safety
- Flood risk
- Biodiversity

Planning Assessment

The principle of development

The site is located within the settlement confines for Barrow on Trent, both as adopted and emerging. Barrow is identified as one of the District's rural villages under policy H1 of the Local Plan Part 1, within which residential development of a limited nature is considered to be appropriate and reflects the presumption in favour of sustainable development within policy S2. Saved policy H5 of the 1998 Local Plan also throws weight behind the principle of the proposal, with that policy also restricting new housing development to that which can be accommodated within village confines, provided it is in keeping with the scale and character of the settlement. In terms of increasing the number of dwellings on the site, the efficient use of land is supported by policy H20. As such the principle of developing the site for residential purposes is considered to be acceptable subject to consideration of the detailed matters below.

Design, layout and heritage

The site is located within the Barrow on Trent Conservation Area where the Council has a duty to have special attention to preserving or enhancing the character and appearance the area - carefully considering any new development that could affect the setting and significance of the area. The NPPF is also explicit in its support for the conservation of heritage assets. In addition local plan policies – saved, adopted and emerging, require new development in conservation areas or affecting the setting of listed buildings to protect, conserve and, where possible, enhance heritage assets' settings. The principal character along Twyford Road primarily relates to the close knit clustered buildings fronting the road itself, which give the area an intimate feel. The site is currently occupied by a rather simple and large Vicarage built in the

1950s, set back around 30m from the road. The Vicarage has little architectural merit or relationship with the historic character of the conservation area and is considered to have a neutral impact on the conservation area.

The harm that this building has on the conservation area is mitigated to a certain extent by the set-back from the road (away from the more significant traditional buildings) and the existing tree planting to the fore of the dwelling. The proposal to demolish the existing building is considered to be acceptable in principle, which rather than harming the significance of the conservation area offers the opportunity to enhance the conservation area subject to a suitable replacement building.

In terms of the siting of the proposed dwellings, plot 1 is effectively a replacement for the Vicarage which is set back from the street frontage (similar to the existing dwelling). This set back, coupled with the retention of appropriate trees to the site frontage and supplemented by additional landscaping, is considered to result in a layout which would not harm the character or appearance of the conservation area, reflecting the absence of built form to the street frontage. Plot 2 retires in to the site and would not be visible from Twyford Road. Glimpses would be visible from Church Lane, but this would be across existing gardens within which existing tree planting and boundary features would partly screen the site, and as such is not considered to result in significant harm to the character of the conservation area. In addition, the separation of the site from the road frontage and existing listed buildings results in a form of development which would very limited harm on the setting of any listed buildings in close proximity to the site.

The two dwellings proposed have been designed through extensive pre-application and post-submission discussions, with the sensitive setting of the site in mind. The dwellings are of a traditional style, with a number of projecting gables of varying widths and ridge heights providing for a varied roofscape to each of the dwellings. This design approach reduces the 'massing' effect which might be presented by a simpler form. Key design features of the dwellings such as the projecting gable of plot 1 and the gablet feature originate from existing buildings within the conservation area. The design of the dwellings includes the provision of windows within their eastern facing side elevations, which provides for some overlooking and natural surveillance of the existing path leading to the equipped play area. This provides social benefits for the existing community in terms of increasing natural surveillance of this area and the safety of users. This overall design approach to developing the site is considered to be appropriate and the design of the dwellings are overall considered to enhance the character of the conservation area.

The proposal includes the widening of the existing vehicular access in to the site by a relatively limited amount, resulting in the partial demolition of the existing stone wall to the frontage which is likely to be contemporary with the War Memorial. The opening would be provided with a partial return utilising the existing stone, reducing the impact of widening the opening and is considered to be a suitable approach to ensuring appropriate vehicle access can be achieved in to the site.

The ability to appreciate key groups of historic buildings and key views within the conservation area would remain unchanged as a result of the proposal, and as a result of the improvement to prominent dwelling in the street scene (plot 1), the

proposed development is considered to be more in keeping with the character and appearance of the conservation area than the existing building which it replaces. Overall the proposal is not considered to result in demonstrable harm on the character of the conservation area or the setting of any nearby listed buildings, and is considered to be an appropriately designed solution to developing the site.

Highway safety

The location of vehicular and pedestrian access in to the site remains the same, with the existing access widened by 2.25m to 5.25m in order to provide sufficient width for vehicles to pass. The application demonstrates that 2.4m x 43m vehicular visibility splays can be achieved from the site entrance in both directions, with the frontage wall facilitating sufficient pedestrian visibility splays. In terms of parking provision, each of the dwellings would have double garages with additional parking bays in front, providing for a minimum of 3 cars, which is considered to be of a sufficient level. The proposals are therefore considered to comply with policy INF2 and the requirements of the NPPF, and the recommendation of the Highway Authority.

As detailed above, the site owner has prepared a construction management plan following discussions with the primary school, which includes measures to reduce the impact of the site development on highway safety and the operation of the school including delivery time restrictions. In the interests of ensuring the continued safety of the school and management of deliveries to the site, it is considered reasonable to formalise this management plan through a condition.

Flood Risk

The concerns raised regarding the levels of the proposed dwellings are noted, especially due to plot 1 being located within Flood Zone 3a and the requirement to provide the floor level above the 1 in 100 year flooding event (with 30% peak river flow climate change applied). The required floor level for plot 1 (39.645m AOD) matches the current threshold levels of the existing Vicarage (between 39.51m and 39.7m AOD), which coupled with the reduction in comparative ridge heights by approximately 1.6m and the steps in ridge and eaves levels, would result in a building that would appear to be of a smaller scale than the existing Vicarage in the street scene. The floor levels for plot 2 are equally not of concern, with the Environment Agency's minimum level actually lower than existing ground levels in this part of the site. Compensatory flood storage and preventative measures during flood events can be conditioned. No objection is raised by the Environment Agency with there no concern as to sustainable drainage of the site.

Biodiversity

The ecological and habitat surveys undertaken highlight that the main areas of interest relate to the impact of the development on a summer bat roost in the existing dwelling and nesting birds. The impact on nesting birds can be appropriately mitigated for by way of timing of the works, interim nesting provision and the inclusion of long term nesting opportunities and enhancement within the new buildings.

In terms of bats, as a roost exists within the Vicarage consideration needs to be given as to whether the Council can satisfy its requirements under the Habitat Regulations. As satisfactory survey work has been undertaken to establish the extent of bat population and appropriate mitigation can be secured to not only maintain but enhance their conservation status, whilst there are environmental and social benefits in enhancing the character of the conservation area and providing for sustainable new housing; it is considered that that the test is met. Suitable bat mitigation can be secured by condition and there is a requirement for a licence to be granted by Natural England before works can commence in any case.

The majority of trees to the site frontage are to be retained and protected throughout the development, with suitable protection and construction techniques used where the proposed access road and parking areas would fall within the root protection areas. The retention of these trees would assist in softening and screening the proposed dwellings from Twyford Road. Whilst a number of trees would be removed from the centre of the site (to the rear of the existing Vicarage), there is no fundamental objection to this given the species and/or the significance of the specimens, and a detailed landscaping scheme is considered appropriate in rebalancing this loss.

Other matters

The proposal site is within an Area of High Archaeological Potential, as established in the Conservation Area Character Statement. This corresponds to the likely area of medieval settlement within the village. The site is also in an area of extensive prehistoric and Romano-British activity, with known concentrations of archaeological cropmarks in a number of places both west and east of the village (each at around 500m from the proposal site). Negative impacts on archaeological survival are likely from the development of the site in the 1950s and its subsequent use as domestic curtilage, although the survival of the site as open space into the 20th century highlights the possibility of archaeological preservation, particularly in relatively undisturbed garden areas. As a result a conditional approach to investigation is considered proportionate.

Conclusion

The proposal is acceptable in principle taking into account the provisions of the development plan, given the site is located within the settlement boundary for Barrow on Trent. The proposed dwellings are considered to be sensitively sited and designed, having taken account of the sites sensitive location within the conservation area. Overall the development is considered to result in an overall enhancement to the character and appearance of the area though the replacement of the existing Vicarage with a dwelling which better reflects the character of the conservation area, whilst the additional dwelling is not considered to bring about harm which is not outweighed by the benefits of an extra dwelling here.

The site has been the subject of detailed ecological and bat surveys, and investigation in respect of flood risk, and these matters are acceptable subject to conditions and relevant mitigation so to comply with the relevant legislation and

planning policy. The surrounding highway network is considered to have sufficient capacity to accommodate the proposed development, suitable construction phase, access and parking arrangements are achievable such that there would be no significant detrimental impacts on the safe and efficient operation of the local highway network.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing numbers 130 Rev D, 131 Rev B, 132 Rev B, 133 Rev A, 134 Rev A, and VC0030 001 Rev A (relating to the access only) unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The development permitted by this planning permission shall be carried out in accordance with the approved Amended Flood Risk Assessment (FRA) (12th January 2017/ 207239/Canham Consulting Ltd) and the following mitigation measures detailed within the FRA:
 - a. Finished floor levels are set no lower than 39.49m above Ordnance Datum (AOD) for plot 2 and no lower than 39.645m above Ordnance Datum (AOD) for plot 1, as stated in Section 6 of the FRA.
 - b. Compliance with the compensatory flood plain storage, as stated in Section 6 of the FRA.Reason: To reduce the risk of flooding to the proposed development and occupants.
4. No works or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved. All tree works or felling should be undertaken with caution by an Arboriculturalist experienced in working on trees with bat roost potential. If elevated survey by the Arboriculturalist finds any further

evidence of bat roosts then all works should cease and further advice sought from a qualified ecologist.

Reason: In the interests of protected species

5. During the period of construction, there shall be no deliveries, and no plant or machinery shall be used outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays and at no time on Sundays, Bank and Public Holidays.

Reason: In the interest of protecting the amenity of nearby residents.

6. No generators or pumps shall be used on site during the construction phase of the development without prior written permission from the Local Planning Authority, and there shall be no burning of construction/demolition waste on site.

Reason: In the interest of protecting the amenity of nearby residents.

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

Reason: In the interests of highway safety.

8. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

i. The programme and methodology of site investigation and recording;

ii. The programme for post investigation assessment;

iii. Provision to be made for analysis of the site investigation and recording;

iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;

v. Provision to be made for archive deposition of the analysis and records of the site investigation; and

vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, recognising that initial ground clearance and preparation works could compromise archaeological interest at the site.

9. Prior to the commencement of any works which may affect bats and their habitat, a Natural England European Protected Species licence, shall be submitted to and approved in writing by the Local Planning Authority. All works should then proceed in accordance with the approved strategy, a copy of which should be submitted to the Local Planning Authority, and the requirements of the licence. The bat mitigation measures shall be monitored for a minimum of two years after construction, and reports submitted to the Local Planning Authority, Derbyshire Wildlife Trust and Derbyshire Bat Conservation Group immediately following completion of each survey.

Reason: In the interests of safeguarding protected species, recognising that demolition, initial ground clearance and preparation works could compromise protected species.

10. Prior to the commencement of any works on the site, a detailed mitigation and enhancement strategy for nesting birds, including house martin, should be submitted to and approved in writing by the Local Planning Authority. All works should then proceed in accordance with the approved strategy.

Reason: In the interests of safeguarding protected species, recognising that demolition, initial ground clearance and preparation works could compromise protected species.

11. Prior to the commencement of any works on site a strategy for Great Crested Newts shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a precautionary method of works, reasonable avoidance measures and a watching brief to be undertaken by a suitable qualified and licenced ecologist during vegetation clearance and demolition works. All works shall then proceed in accordance with the strategy.

Reason: In the interests of safeguarding protected species, recognising that demolition, initial ground clearance and preparation works could compromise protected species.

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

Reason: To protect the amenities of adjoining properties, the locality generally, and in the interests of flood risk. Recognising that initial ground clearance and preparation works could compromise flood risk in the locality.

13. No development shall take place until a construction management plan or construction method statement, based on the submitted site management plan, has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of

goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety and the amenities of nearby residents and the adjacent primary school, recognising that works including the demolition, initial ground clearance and preparation works could compromise highway safety.

14. Before any other operations are commenced the existing access to Twyford Road shall be modified in accordance with the approved plans, laid out, constructed and provided with 2.4m x 43m visibility splays in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel Level.

Reason: In the interests of highway safety, recognising that works including the demolition, initial ground clearance and preparation works could compromise highway safety.

15. Prior to the commencement of building operations on the site a scheme for the method of construction of the driveway within the Root Protection Areas as detailed in drawing 'TREE PROTECTION PLAN (612 TRB 03 Rev C)' shall be submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved details.

Reason: To protect the trees from undue disturbance, recognising that initial demolition, ground clearance works and site preparation could compromise the long term health of the trees affected.

16. Prior to the commencement of building operations on the site scaffold protective fencing in accordance with BS5837:2012 shall be erected in accordance with drawing 'TREE PROTECTION PLAN (612 TRB 03 Rev C)' and retained in position until all building works on adjoining areas have been completed.

Reason: To protect the trees from undue disturbance, recognising that initial demolition, ground clearance works and site preparation could compromise the long term health of the trees affected.

17. A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any part of the development.

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

18. A sample of both the roof tile and the brick shall be submitted for approval in writing by the Local Planning Authority before the construction of any buildings.

Reason: To ensure the building/extension is in keeping with its surrounding in the interest of the character and visual amenity of the area.

19. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The approved

rooflights shall be fitted such that their outer faces are flush with the plane of the roof.

Reason: In the interests of the appearance of the building(s) and the character of the area.

20. No external lighting shall be installed until a detailed lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall thereafter be implemented in accordance with the approved details and maintained as such.

Reason: In the interests of safeguarding protected species.

21. Notwithstanding the submitted drawings/plans, no development involving the construction of a dwelling or boundary treatment shall commence until revised drawings detailing the height, types and materials of boundary fences and walls and the positions of associated pedestrian gates have been submitted to and approved in writing by the Local Planning Authority. Such drawings shall be based on the positions of boundary fences and walls shown on layout plans hereby approved and be supplemented with elevational plans to show the typical heights and materials of such fences and walls. The fences and walls and the positions of associated pedestrian gates shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

22. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before their installation. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.

Reason: In the interests of the appearance of the building(s), and the character of the area.

23. The dwellings, the subject of this application shall not be occupied until space has been provided within the application site in accordance with approved drawings for the parking of a minimum of two vehicles per dwelling, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

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

25. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless alternative details are first submitted to and approved in writing by the Local

Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before their installation.

Reason: In the interests of the appearance of the building(s) and the character of the area.

26. External doors shall be timber and painted in a colour and to a specification which shall have previously been agreed in writing by the Local Planning Authority and be set back from the face of the wall by a minimum of 50mm.

Reason: In the interests of the appearance of the building(s) and the character of the area.

27. Gutters and downpipes shall have a black finish.

Reason: In the interests of the appearance of the building(s), and the character of the area.

28. Pointing of the proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet: Repointing of Brick and Stonework.

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

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

Reason: In the interests of highway safety.

Informatives:

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

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

3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

4. The County Flood Risk Team advises:

- Any alteration to existing impermeable surface area of the site may

exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.

- Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
- The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
- Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
- Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

5. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

6. During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

07/02/2017

Item **1.6**

Ref. No. **9/2016/0932/CC**

Applicant:
Mr Gary Supple
20 Victoria Way
Pride Park
Derby
DE24 8AN

Agent:
Mr Christopher Lindley
Dpds Consulting Group
3 Gleneagles House
Vernon Gate
Derby
DE1 1UP

Proposal: **DEMOLITION OF EXISTING DWELLING (FORMER VICARAGE) AT
11 TWYFORD ROAD BARROW ON TRENT DERBY**

Ward: **ASTON**

Valid Date **14/09/2016**

This application is submitted pursuant to the demolition of the existing dwelling on the site known as the Vicarage. The merits of the case are examined in the companion application for the redevelopment of the site under 9/2016/0917 above.

Recommendation

GRANT relevant consent for demolition subject to the following conditions:

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

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall relate to the existing building known as the Vicarage, 11 Twyford Road, Barrow On Trent, Derby, DE73 7HA.

Reason: For the avoidance of doubt.
3. No demolition shall take place until a contract for the implementation and construction of the development approved under planning permission ref: 9/2016/0917 has been secured. If for any reason that development does not then commence within 6 months of the demolition of the existing building, a scheme for the restoration of the land shall be submitted to and approved in writing by the Local Planning Authority. The land shall then be restored in accordance with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.

Reason: To ensure all reasonable steps have been taken to ensure the new development will proceed after the loss of the existing building has occurred.

Informatives:

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

07/02/2017

Item **1.7**

Ref. No. **9/2016/1286/TC**

Applicant:
Ms Zoe Sewter
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Joshua Corbett
Urban Green
Jactin House
24 Hood Street
Ancoats Urban Village
Manchester
M4 6WX

Proposal: **THE FELLING OF TREES AND THE RELOCATION OF ONE TREE**
 AT THE DIANA GARDEN GROVE STREET SWADLINCOTE

Ward: **SWADLINCOTE**

Valid Date **03/01/2017**

Reason for committee determination

The item is presented to Committee as the Council is the applicant.

Site Description

The site comprises an open area of public open space with numerous trees, seating and walls at the rear of the Leisure Centre adjacent to the Grove Street/Alexandra Road junction. The site lies within the Swadlincote Conservation Area.

Proposal

The scheme involves the felling of several trees and the relocation of one tree within the site as part of the comprehensive redesigning of the memorial garden.

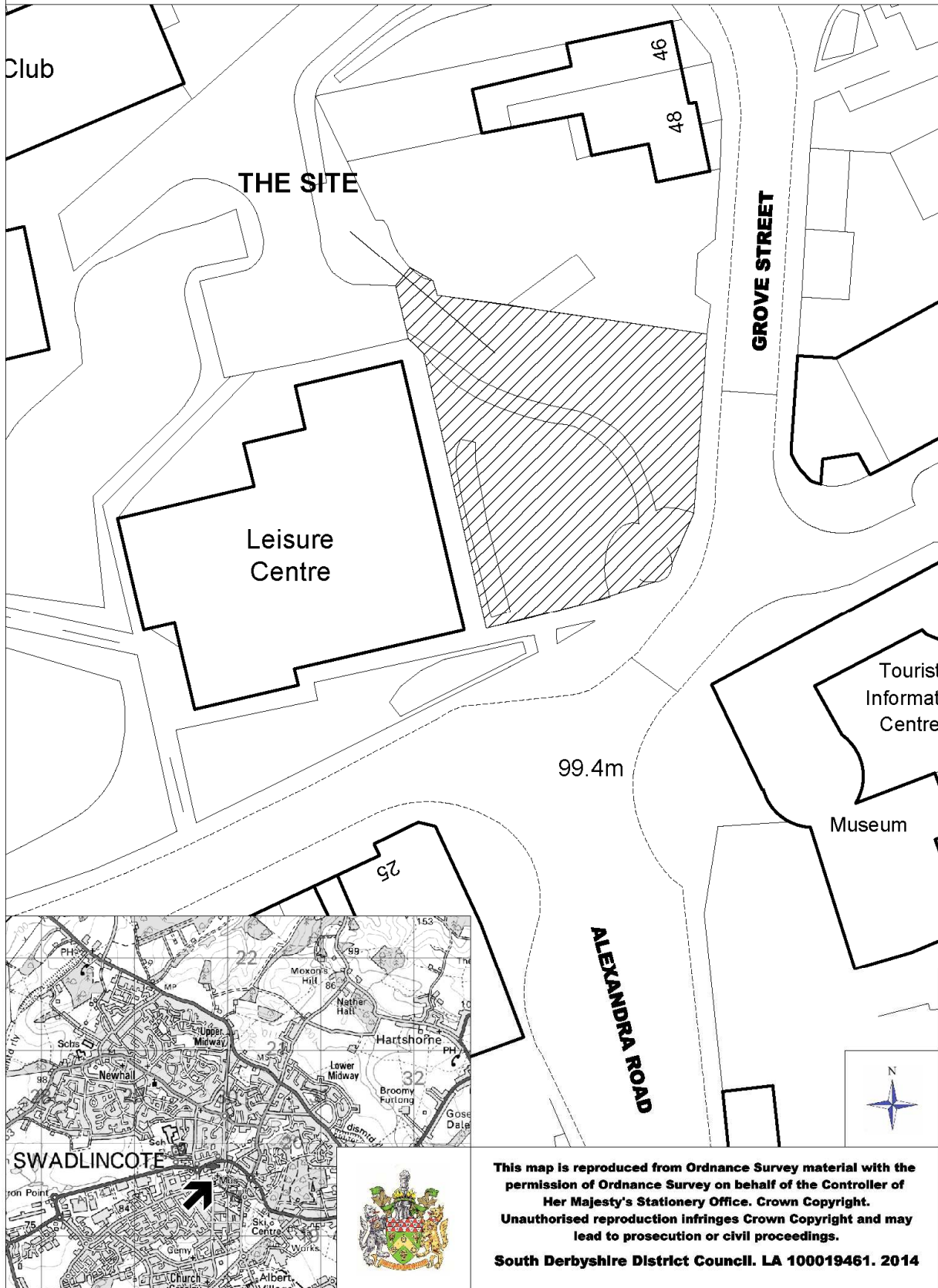
Applicant's supporting information

The applicant states that the proposal will allow for the redesign of the site to improve the usability of the space by the general public whilst improving overall its appearance. The works are part of the Swadlincote Townscape Heritage Scheme.

Planning History

9/2007/0176 ~ The felling of a tree.

9/2016/1286- Diana Garden, Grove Street, Swadlincote DE11 0AD



Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1:
- 1998 Local Plan (saved policies):

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: Policy BNE7.

National Guidance

- National Planning Policy Framework (NPPF) : None.
- Planning Practice Guidance (PPG) : Tree Preservation Orders and trees in conservation areas

Planning Considerations

The main issue central to the determination of this application is whether the works to the trees are necessary and acceptable.

Planning Assessment

Emerging Policy BNE7 seeks to ensure that protected trees are safeguarded and will only be permitted to be felled in exceptional circumstances. In this case a full survey has been undertaken by the Tree Officer as part of the project and it has identified that a number of trees should be felled mainly because they are unsuitable for long-term retention. Although several trees would be lost, the Council considers that the resultant redesign of the Diana garden would be of a benefit to the general public as it would create a more useable and attractive space for public use. This view is supported by the Council's Tree Officer.

The proposed works are therefore considered to be acceptable

Recommendation

To offer **no objection** to the works.

Informatives:

1. If this work is not carried out within two years of giving notice, a further notice is required.
2. You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

07/02/2017

Item **1.8**

Ref. No. **9/2016/1154/NO**

Applicant:
Mr D Houghton
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Waldron
Summers-Inman
6 Thorpe Way
Grove Park
Leicester
LE19 1SU

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

Ward: **SWADLINCOTE**

Valid Date **05/12/2016**

Reason for committee determination

The item is presented to Committee as the Council is the landowner and applicant.

Site Description

The site extends to 0.1 hectares within the heart of Swadlincote, a short distance from the Delph and adjacent to Belmont Street as it heads north towards Civic Way. The disused bowling green borders the northern boundary; and retail and financial with residential premises above border the western boundary. The site has been vacant for some time since its last use for industrial purposes, with most of the former buildings cleared to slab level. Two smaller brick built buildings remain to the southern end of the site, one which has recently undergone remedial works. A low retaining wall borders Belmont Street itself where an existing access rises up into the site, whilst the western boundary is also characterised by a brick wall, approximately 2 metres in height. The boundary with the bowling green is made up of temporary herras fencing. The site lies within the Swadlincote Conservation Area.

Proposal

It is proposed to clear the existing foundation slabs and regrade the site in parts to provide for a vehicular parking area, primarily for the purposes of parking market traders' vehicles on market days. The existing access would be widened to facilitate

9/2016/1154- Sabines Yard, Belmont Street, Swadlincote DE11 8JU



the proposal whilst existing boundary treatments would be restored and/or replaced. Lighting would also be installed.

Applicant's supporting information

Aside from the usual supporting plans, a Coal Mining Risk Assessment considers it is possible that shallow unrecorded workings are present beneath the site. Details relating to mine shafts in the vicinity indicate that two shafts are located within 20 m of the site boundary and there is no record of treatment. In addition, historical mapping indicates coal mining activities in close proximity to the site. Consequently it is considered that the Block and Yard Coal Seams are likely to be at a shallow depth and that any associated unrecorded workings could be at a depth which may pose a risk. However, as the proposal comprises construction of a surface parking area, this is unlikely to significantly disturb the shallow ground and consequently it is considered unlikely that the proposal would be impacted by shallow workings. No further assessment or investigation is considered necessary at this time, although a watching brief should be implemented during earthworks.

Planning History

9/2004/1215 Residential development – Approved December 2004

Responses to Consultations

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment are sufficient having regard to the nature of the works proposed and has no objection subject to the inclusion on an informative.

The County Highway Authority notes advice has been given previously in respect of ensuring an acceptable layout and that the provision of additional parking without associated development is not generally encouraged. Whilst the drawings do not indicate the height of the wall to be rebuilt on the north side of the access, nor the gradient into the site from the highway boundary; it is considered these matters can be controlled by condition.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), S7 (Retail), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), INF2 (Sustainable Transport) and INF8 (The National Forest).
- 1998 Local Plan (saved policies): EV12 (Conservation Areas)

Emerging Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: BNE10 (Heritage) and RTL2 (Swadlincote Town Centre Potential Redevelopment Sites).

National Guidance

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

Local Guidance

- Swadlincote Conservation Area Character Statement
- Swadlincote Town Centre Masterplan

Planning Considerations

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

- The principle of development
- Highway safety
- Heritage
- Land stability

Planning Assessment

The principle of development

The redevelopment of the site is a strategic aim of both the Local Plan Part 2, under emerging policy RTL2. Whilst the proposal does not fit squarely with the intentions of the policy in respect of the site, it not facilitating commercial development which would secure an ongoing active use of the site; the proposal would facilitate its use above it being left derelict until such a time where the appropriate response can come to fruition. The fact that it is Council owned also ensures the land can be 'released' in line with the strategic objectives as and when the time is right. In brief, it is envisaged that this development would only provide an interim chapter in the use of the site, and does not compromise the wider vision. At the same time the proposal would offer the benefit of providing a 'holding' area of market traders' vehicles assisting in relieving pressure on the existing car parks around the town on such days, enabling great footfall and custom. There are thus economic benefits which must weigh in the mix here.

Highway safety

The concerns in respect of providing car parking without an associated use are noted, but the use of this space would be controlled to limit it to the purposes specified – not for general use as a public car park. The method in which this is

achieved can be conditioned. The widening of the access would facilitate the safe movement of vehicles in and out of the site, whilst pedestrian traffic can remain segregated by way of the existing southern pedestrian access. Technical detail of these alterations can be secured by way of condition and hence the proposal is not considered to pose a risk to highway safety.

Heritage

With the site presently derelict and overgrown with self-set shrubs and scrub, the proposal presents the opportunity for an enhancement to the conservation area and its setting. Boundary walls are to be rebuilt/repared where necessary and, subject to prior approval of such detail, this would provide a considerable improvement. The appearance of the lighting columns can also be controlled in a similar fashion.

The intention to regrade some of the existing ground whilst retain other parts could lead to a less than visually pleasing solution. It is recognised that budgetary constraints and the lack of associated development which might fund the works, limits the extent to which new surfaces can be provided. In striking a fair balance and ensuring that other expectations for other redevelopment sites in the town are not compromised, a condition is proposed to require a cohesive approach to surfacing should the use continue beyond a set timeframe. This would enable this cost to be factored into budgets going forward to provide for these works in the future.

Land stability

As the proposal would not include significant intrusive ground works, there is no concern in respect of coal mining legacy and ground stability.

Summary

Whilst the proposal may not fully meet the policy and heritage objectives in terms of enhancing the town centre, it would provide for an identified need and put the land into semi-active use until wider strategic objectives can be realised. The financial constraints of achieving a visually appropriate surface are recognised and it is considered appropriate, in this circumstance and recognising that the use may only provide for an interim solution to the long term use of the site, to defer this requirement for the time being.

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

Recommendation

GRANT permission under Regulation 3 subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan/drawing LE15140-02 Rev F unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Prior to the creation of new hard surfaces, details of the surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the site and the area generally.

4. Notwithstanding the requirements of condition 3, no later than 5 years from the date of permission a scheme to provide for the comprehensive resurfacing of the site in a bound material shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details no later than 6 months after its approval.

Reason: To safeguard the appearance of the site and enhance the conservation area.

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no works to demolish, repair or replace the boundary walls, or to create new boundary treatments, shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the height, materials and design of the altered/replaced walls and the positions, design, materials and type of new boundary treatment(s) to be erected. The boundary treatments shall be completed in accordance with the approved details before the use first commences or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

6. Prior to first use of the site for the purposes hereby approved, details of a scheme to improve the external faces of the buildings to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall consider alternative methods of obscuring/blocking up the existing openings in these buildings. The approved scheme shall then be implemented prior to the first use of the site.

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

7. Prior to the site being first taken into use, the access shall be widened in accordance with the approved plan/drawing. The access shall be provided

with visibility sightlines of 2.4m x 25m, the area forward of which shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 1m in height relative to the nearside carriageway edge. For the avoidance of doubt, the 'sections of boundary wall/retaining wall to be taken down and rebuilt' as indicated on the drawing fall within the sightlines and therefore need to be constructed in accordance with the requirements of this condition.

Reason: In the interests of highway safety.

8. Prior to first use of the site for the purposes hereby approved, details of a scheme to ensure the securing of the site outside of its days and times of use so to prevent general public use and/or obstruction, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented throughout the lifetime of the development.

Reason: In order to prevent indiscriminate and unregulated parking use of the premises, contrary to the objectives of the use applied for.

Informatives:

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

2. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/coalauthority.

3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

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

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

6. Car parking spaces should measure at least 2.4m x 5.5m with a minimum manoeuvring space of 6m.

7. The application site is adjacent to a Public Right of Way (Footpath 50, 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. If it is necessary to temporarily obstruct the right of way to undertake development works, a temporary closure is obtainable from the County Council. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

8. The applicant may wish to consider the use of public art to improve in the internal facing elevations of the buildings to be retained on the site. Existing coverings to openings on these buildings should be re-sited internally where feasible in order to expose the existing opening reveals and detailing.

07/02/2017

Item **1.9**

Ref. No. **9/2016/1258/FH**

Applicant:
Mr R Thornewill
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Andrew Bennett
Housing Adaptations
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE ERECTION OF A SINGLE STOREY REAR EXTENSION AT 62**
 ARTHUR STREET CASTLE GRESLEY SWADLINCOTE

Ward: **LINTON**

Valid Date **01/12/2016**

Reason for committee determination

The item is presented to Committee as the applicant is the Council.

Site Description

The application property is a semi-detached dwelling with similar land levels around the site other than a step up to grassed area of the rear amenity space.

Proposal

The application proposes a single storey rear extension to provide washroom facilities for the disabled resident.

Applicant's supporting information

None.

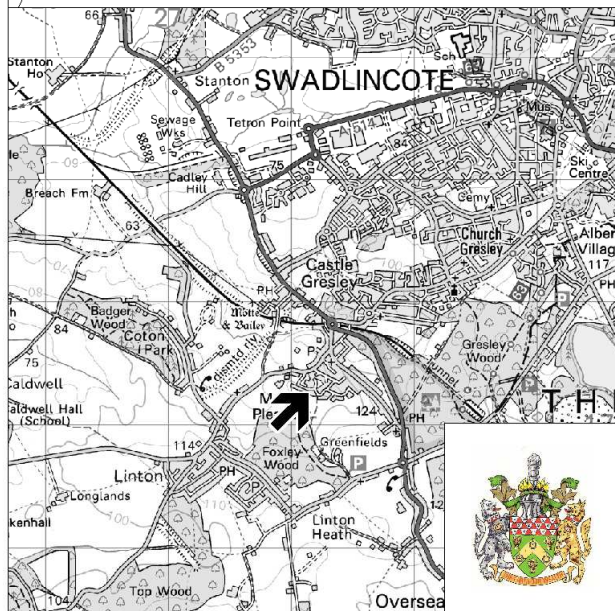
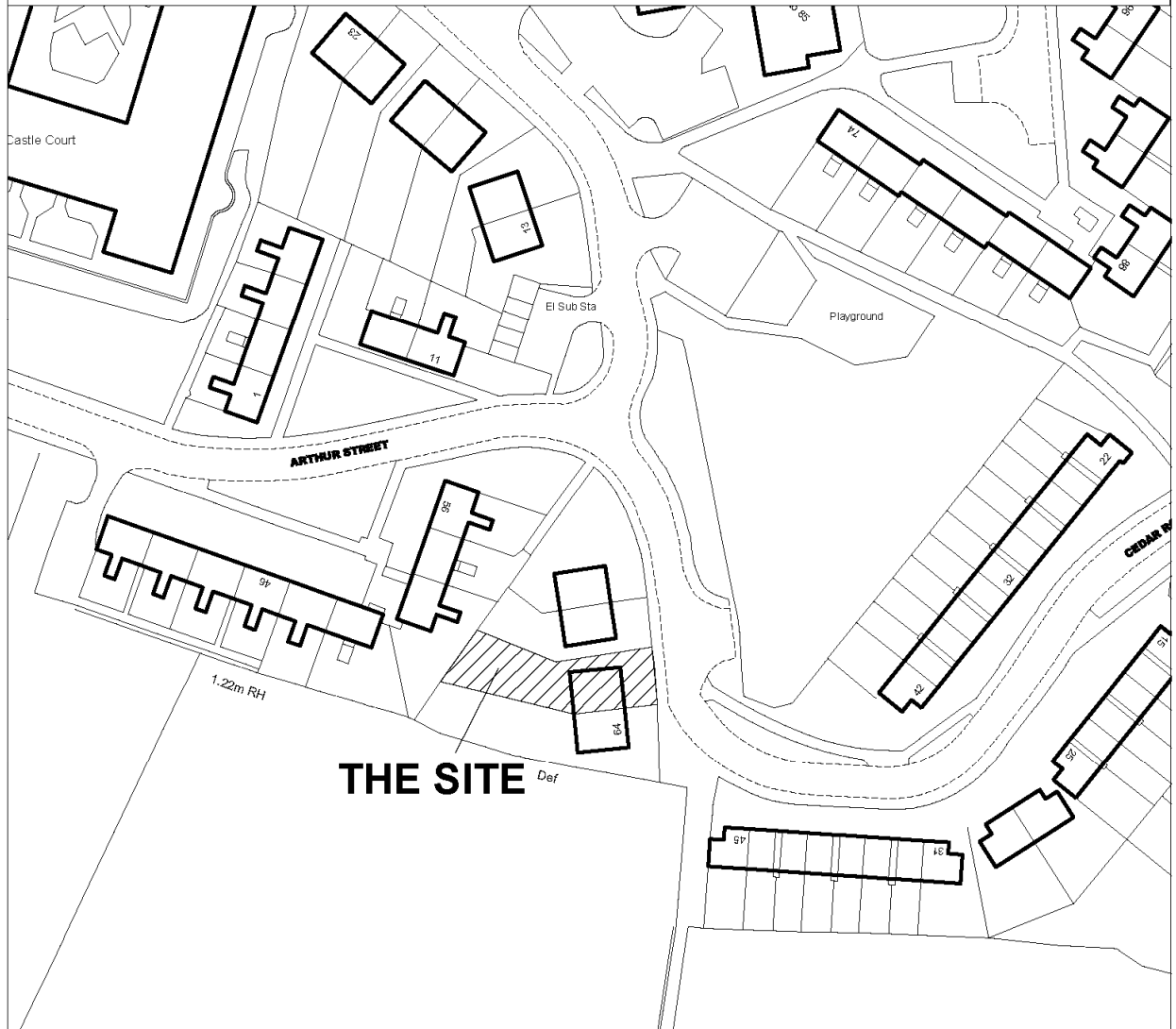
Planning History

None.

Responses to Consultations

None.

9/2016/1258- 62 Arthur Street, Castle Gresley DE11 9HG



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Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: SD1, BNE1
- 1998 Local Plan (saved policies): H13

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: H27

National Guidance

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

Local Guidance

- SPG Extending Your Home

Planning Considerations

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

- The acceptability of the design.
- The affect the proposal would have on the amenities of neighbouring properties.

Planning Assessment

The proposal would not be seen from the public realm. The rear garden is enclosed by a 1.8m fence. Land levels are similar with either side neighbour.

The design of the proposal is considered acceptable in terms of its appearance against the host and the public realm.

The proposal would not overlook or overbear upon any neighbouring property.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing number 4757 AMB; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

Informatives:

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

2. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining

features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

07/02/2017

Item **2.1**

Ref. No. **9/2016/0887/FM**

Applicant:
Mr Collin Franklin
2 Astill Pine Close
Breaston
Derby
DE72 3BF

Agent:
Paul Gaughan Building
Consultants Limited
Unit E14
Langham Park Ind Est,
Lows Lane
Stanton By Dale
Ilkeston
DE7 4RJ

Proposal: **THE DEMOLITION OF EXISTING BUNGALOW AND ERECTION OF**
 A TWO STOREY DETACHED DWELLING AT 2 MAIN STREET
 AMBASTON DERBY

Ward: **ASTON**

Valid Date **05/09/2016**

Reason for committee determination

The item is presented to Committee by Councillor Mrs Coyle as local concern has been expressed about a particular issue.

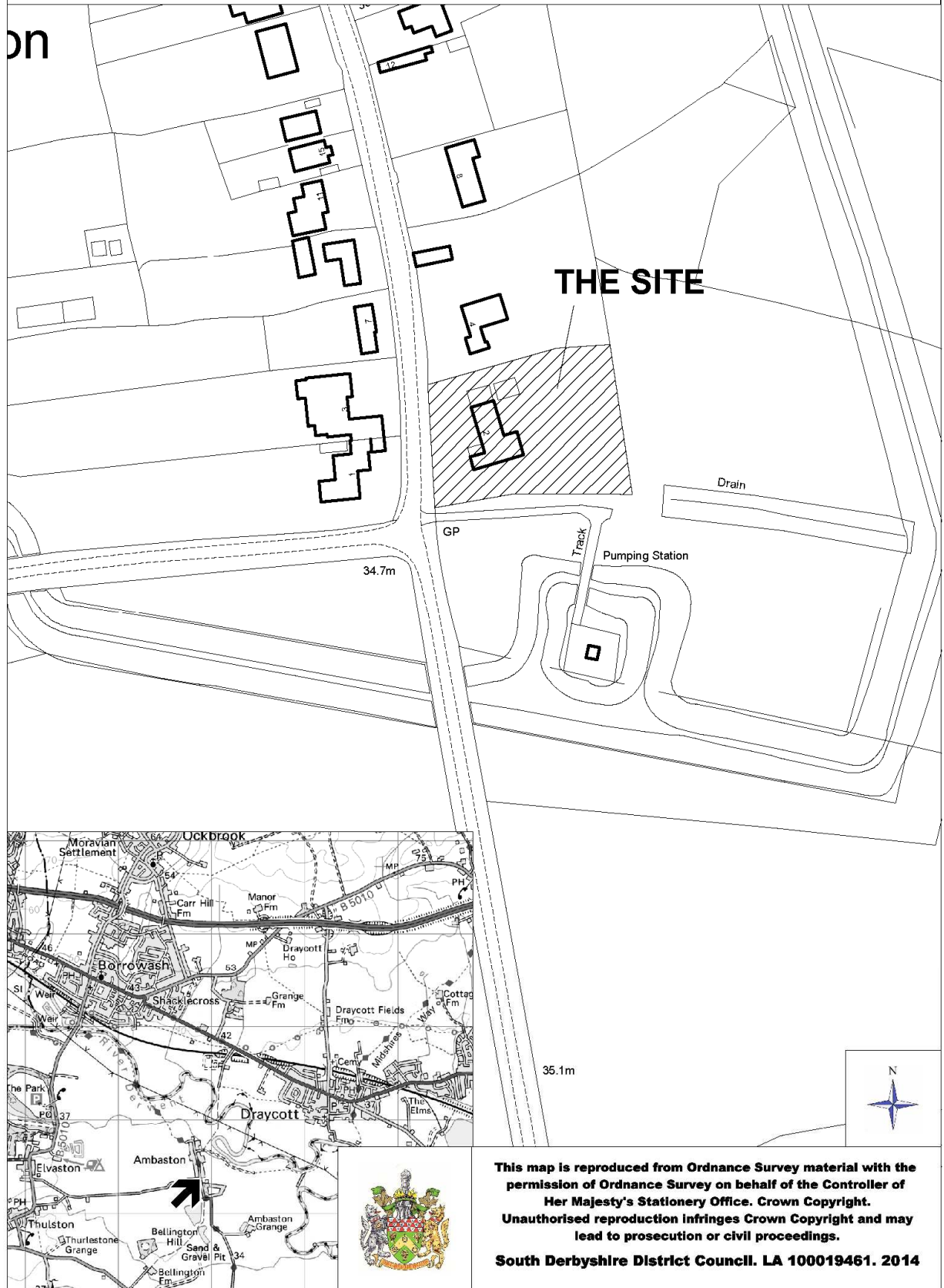
Site Description

The site is currently occupied by a single storey bungalow which is positioned behind a row of willow trees and is located within the small village of Ambaston. The site is located at the end of the village and is one of the first and most prominent properties when entering the village from the south. The site is surrounded by open countryside to the side and rear. Whilst the village is not a primary through road to any other services or destinations, owing to the position of the application site at the end of the village, the site is highly visible when assessed from the public realm.

Proposal

Consent is sought for the replacement of an existing dwelling with associated parking and landscaping. The existing dwelling is a single storey bungalow. The replacement dwelling is proposed at roughly the same position on the site and with a similar footprint as the existing dwelling. However, the proposed dwelling would be two storeys in height and in terms of mass, size and scale would be significantly different.

9/2016/0887- 2 Main Street, Ambaston DE72 3ES



Applicant's supporting information

Design and Access Statement

The proposed dwelling will be two storeys with a Georgian appearance which the applicant favours. The garaging and parking has been relocated to the rear of the site to lessen the impact of the parking on the appearance of the frontage of the dwelling. The design que has been taken from a two storey replacement dwelling across the road; the development would be constructed out of traditional materials and would sit comfortably with the surrounding properties. The proposed dwelling would have a volume of 1,968.00 cubic metres.

Flood Risk Assessment

Based on the topographical survey of the existing site, this would give flood depths of between 0.50 metres up to 0.85 metres at ground level. The building footprint would be elevated by approximately 700mm which will mean that the ground floor of the property should be above the level of flooding during an overtopping event.

Preliminary Bat Roost Assessment and Breeding Bird Survey

The development could include the planting of trees, shrubs and grassland to improve the foraging resource on site for bats. Bat tubes could be incorporated into the gable ends of the new building.

Dusk Emergence Bat Survey

Identified low bat roost potential both in the bungalow and the garage building on site. A suitable bat survey carried out in good weather in August 2016 did not identify any bats emerging from either building. Soprano Pipistrelle bats were identified mainly from north to south but with no roost nearby and Noctule bats were identified passing over the site from west to east. Therefore, the demolition works on the site would not impact on any bat roosting within the buildings.

Letter of support from Agent

It is considered that the proposed dwelling would be a logical response to the existing character and would integrate well with the village. It is considered that the proposed dwelling is compliant with policies within South Derbyshire.

Planning History

No relevant planning history.

Responses to Consultations

The County Highways Authority has no objection to the proposal subject to suitable parking and manoeuvring space being allocated prior to the first use of the dwelling.

The Council's Environmental Health Officer has made no comment on the application.

The County Flood Risk Team has no objection to the application.

Derbyshire Wildlife Trust has advised the Council that an appropriate level of survey work has been completed for the application to be determined. They have no objections to the proposal subject to a condition being attached for a bird and bat enhancement strategy to be submitted.

Following the submission of amended plans and a Flood Risk Assessment showing the required finished floor level, the Environment Agency has no objections in principle to the proposed development but recommends that if planning permission were to be granted that a planning condition should be attached specifying that the finished floor levels are set no lower than 36.43 m above Ordnance Datum (AOD).

Responses to Publicity

One letter of support and one comment has been received, making the following comments:

- a. The proposals as drawn together with the materials to be used can only fit well into and enhance the sole entrance to Ambaston hamlet.
- b. The proposed design and its positioning will result in a significant increase in massing over the existing bungalow, which when combined with the recent property built at 1 Main Street will 'narrow and crowd' the street scene as you enter the village.
- c. Could the development therefore be moved slightly further back in the plot to lessen this impact?
- d. The Willow trees across the front garden of number 2 are a particularly prominent and striking feature of the village, providing significant amenity value, as well as acting as a screen for this development. Could these be protected with a TPO in order that some of the original character of the entrance to Ambaston is maintained?

In addition, Councillor Coyle has made the following comments:

- a) The increase in height is necessary as Ambaston has the potential to flood but the proposed dwelling is set a long way back from the road and behind the existing trees.
- b) There are a mixture of fronts in Ambaston with some houses showing the side of their house to the road, some the garages and others the front of the house.
- c) This is an attractive looking house and would be an asset to the village and it would be good for the people coming into the village to see an attractive house rather than a garage.
- d) Ambaston was quoted as having a number of styles in previous applications "Overall the street displays a variety of architectural styles and tones of materials." Planning committee 4/11/2008. Of which the Council's Design Excellence Consultant commented as follows:

"The settlement has grown organically and its character is in part derived from the range of architectural styles evident along the street. There is not a discernible, unifying character and in turn no clear justification for the Council to expect the development to conform to a particular form or style. ...local authorities are instructed not to stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles." ... " Planning committee 4/11/2008

- e) Based on the precedent that was set when 3 Main Street, Ambaston, it is considered that this application should also be allowed.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).
- 1998 Local Plan (saved policies): EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland) and H8 (Housing Development in the Countryside).

Emerging Development Plan Policies

The relevant policies are:

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

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34 (Promoting sustainable transport), chapter 6 (Delivering a wide choice of quality homes), chapter 7 (Requiring good design), paragraphs 72 (Promoting healthy communities) and paragraphs 109, 118-123 (Natural environments), paragraph 186 (Decision-taking), paragraphs 196 & 197 (Determining applications) and paragraphs 203 – 206 (Conditions and obligations).
- National Planning Policy Guidance (NPPG) ID26 (Design) and ID50 (Rural Housing).

Local Guidance

- Housing Design and Layout SPG

Planning Considerations

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

- Principle
- Design approach and impact on location
- Flood Risk

Planning Assessment

Principle

The village of Ambaston is not defined by a settlement boundary in either the 1998 Local Plan or in the emerging Part 2 Local Plan due to the size and the remote nature of the village. The erection of a proposed dwelling in this area would therefore be considered as development within the countryside. However, as the proposed dwelling seeks to replace an existing dwelling, there is scope under saved Policy H8 and emerging Policy H24 for this development to be allowed in principle.

Both saved Policy H8 and emerging Policy H24 specify that the proposed dwelling should not exceed the form and bulk of the original dwelling and that the proposal should be in keeping with the character of the surrounding area which is explored further below.

Design approach and impact on location

Saved 1998 Policy H8B and emerging Part 2 Policy H24 seek to ensure that the form and bulk of proposed dwellings in the countryside would not significantly exceed that of the original. In addition, the policies seek to ensure that the size and scale of the proposed dwelling would respect the characteristics of the local area and would not lead to a harmful and dominant addition within the immediate vicinity.

The village of Ambaston is a small village which consists of dwellings with many different architectural styles; differing from a number of older farm cottage style buildings, to modern bungalows and modern family dwellings. On the basis of this, there is no requirement for development to comply with a particular architectural design or historic style and this has paved the way for more modern and experimental dwellings in the area over the past few years. This being said, whilst architectural styles differ, the dwellings that are present in Ambaston are of a similar form, scale and size, in that they are moderate understated dwellings.

The site is located adjacent to neighbouring properties that have previously been constructed as replacement dwellings. The original properties were also bungalows and these properties also benefit from large original ground floor footprints. The adjacent dwellings represent the largest dwellings within the scope of the village. The existing dwelling is single storey and due to its current size and scale, is mostly obscured from view when seen from the highway when entering the village due to the line of willow and laburnham trees that are located at the front of the property and presents a modest single storey dwelling to the open side and rear elevations. For these reasons, the site currently provides an open aspect when entering the

village. However, the proposed dwelling would be significantly larger than these existing dwellings in Ambaston. Whilst the ground floor would be similar in size to the existing ground floor area, the addition of such significant first floor accommodation, presented as a continuous, uninterrupted elevation to the front of the site, would create a dominant and imposing addition at a highly visible and open site within the village. Even when compared to other recent developments in the village, the proposed dwelling seeks to create an additional c.50% more first floor space than no.3 Main Street for example, and would be positioned on a significantly more open site. In addition, the position of such a significantly large dwelling at the entrance to the village would be marked change to the local context. The impact of this would be further exacerbated by the requirement to raise the finished floor level of the dwelling by c.700mm. This would therefore significantly change the current appearance of the street scene and would have a harmful and urbanising effect on the setting of the immediate area, forming a “pinch point” when entering and exiting the village. The full extent of the first floor would be elevated and would be highly visible from the front, across the tops of the trees and to the side and rear when viewed from the open countryside.

As such, the proposed dwelling would fail to respond to the scale, position and bulk of the neighbouring residential properties and the prevailing character of the surrounding area and so would fail to comply with saved Policy H8 and emerging Policy H24.

Flood Risk

The site is located within defended Flood Zone 3. Amended plans have been submitted which show the proposed finished floor level as 36.43m above Ordnance Datum (AOD). This would ensure that the finished floor level of the proposed dwelling would be in excess of 700mm higher than the existing bungalow. On the basis of this information, the Environment Agency is now satisfied that the proposed dwelling would be sufficient to meet a 1 in 100 year event. On the basis of this, the proposed development would comply with policy S2 for flood risk.

Conclusion

Whilst the erection of a replacement dwelling is acceptable in principle, the proposed dwelling would significantly exceed the current bulk and form of the existing dwelling and would be significantly larger than any dwelling within the surrounding area. The proposed dwelling would fail to respect the understated character of the surrounding area and would create a negative and urbanising pinch point at the entry into Ambaston. Therefore, the proposal would fail to comply with Saved 1998 Policy H8 and emerging Part 2 Policy H24.

It was anticipated that the applicant would submit amended plans that would either reduce the size and bulk of the proposed dwelling or would attempt to soften the dominant front elevation which would help to respond the existing form and orientation of the existing properties within the village. However, these amendments have not been forthcoming and the application has been assessed on the information that has been submitted to date.

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

Recommendation

REFUSE permission for the following reasons:

1. Saved Housing Policy 8 of the Local Plan and emerging policy H24 of the Submission Local Plan Part 2 seek to ensure that replacement dwellings in the countryside are of a form and bulk which do not substantially exceed that of the original (or that which could be achieved as permitted development). The proposed dwelling would significantly exceed the current bulk and form of the existing dwelling and would be significantly larger than any dwelling within the surrounding area. The proposed dwelling would fail to respect the understated character of the surrounding area and would create a negative and urbanising pinch point at the entry into Ambaston.

Informatives:

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, suggesting amendments to the proposal/meetings and negotiations and providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed/the suggested amendments have not been supplied. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/ Delegated	Page
9/2016/0151	Newhall	Newhall & Stanton	Dismissed	Delegated	130
9/2016/0463	Linton	Linton	Allowed	Delegated	135
9/2016/0464	Linton	Linton	Allowed	Delegated	135
9/2016/0568	Mickleover	Etwall	Dismissed	Delegated	139
9/2016/0691	Midway	Midway	Dismissed	Delegated	143

Appeal Decision

Site visit made on 5 January 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 26th January 2017

Appeal Ref: APP/F1040/W/16/3159545

Jolly Colliers Public House, 2 Rose Valley, Newhall, Swandlincote, Derbyshire, DE11 0QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Margaret Guthrie against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/0151, dated 15 February 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the erection of 14 no apartments and conversion of existing public house to form dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with matters of access, appearance, landscaping, layout and scale to be determined. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect of the proposal on highway safety.
 - The effect of the proposal on the living conditions of neighbouring residents with particular regard to privacy.

Reasons

Character and Appearance

4. This appeal site comprises a public house with associated car park and garden area. The property abuts Rose Valley which is a narrow road generally characterised by two-storey terraced and semi-detached dwellings which are relatively modest in scale. The large expanse of land to the rear of the public house adjoins the gardens of modern, two-storey housing on Rambler Close and the gardens of a two-storey block of flats at Chrysanthemum Court. The scale and design of the flats at Chrysanthemum Court is such that they have the appearance of terraced dwellings.
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5. The proposal seeks to convert the existing public house to a dwelling and erect a building containing 14 apartments on the land to the rear. The building would utilise materials that are found within the local area such as brickwork and render. Indeed, I note that the proposal has sought to reflect some design features of the existing public house and properties within the area.
6. However, whilst there would be set backs and the use of the gable features, the scale and massing of the building is such that it would appear as a single, continuous mass of built form. Whilst I note they would not be too dissimilar in width to surrounding properties, the several gables proposed on each elevation would be particularly excessive in width and height and would obscure the majority of the building's façades. Moreover, there would be little uniformity in the size of each gable or indeed the spacing between them.
7. Furthermore, there would be a considerable variation in the proposed roof, with a series of pitches at different heights. At its highest point, towards the centre of the building, the roof of the central gable on the southern elevation would extend to almost half of the overall height of the building. In addition, the pitched roof of each gable would be close to the proposed ridge height or in some circumstances, above it.
8. I note that there are significant variations in the window design of the surrounding properties. Whilst the appellant indicates that the proposed windows are all of the same style, the proposed plans nevertheless indicate that there would be a significant degree of variation in the fenestration, with French doors behind Juliet balconies, smaller windows with crossbars, single pane casement and larger, three pane casement windows unevenly spread across the building. Moreover, whilst the proposed flats would be set back from Rose Valley, the proposed building would be visible from several vantage points within the immediate area. As a result, it would, in my view, appear as a dominant and incongruous feature within the street scene.
9. I note references to a development for what the appellant describes as a much larger apartment development immediately adjacent to the appeal site. However, I do not have full details of that scheme or the policies that applied at the time of its consideration. In any case, I have considered the appeal scheme on its own merits and the presence of a similar development in the area would not justify the harm to the character and appearance of the area arising from the appeal proposal.
10. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the area. Consequently, it would fail to accord with Saved Policy H4 of the South Derbyshire District Council Local Plan Adopted Version May 1998 (LP) which states that residential development within the built up area of Newhall will be permitted provided it is of a suitable scale and character. The proposal would also conflict with Policy SD1 of the South Derbyshire Local Plan Part 1 2016 (LPP1) which states that development which does not lead to adverse impacts on the environment will be supported.
11. The proposal would also conflict with Paragraphs 56 and 60 of the National Planning Policy Framework (the Framework) which attach great importance to the design of the built environment and seek to promote or reinforce local distinctiveness.

Highway Safety

12. The appeal site is currently accessed from Rose Valley which is an unclassified road serving around 53 residential properties. It is proposed to utilise the existing access point into the site. Rose Valley varies in width with a particularly narrow section running from the junction with Meadow Lane to the appeal site. It is indicated that the road is subject to a 30mph speed limit, however, the Local Highway Authority indicates that it is unlikely that actual vehicle speeds would be 30mph with a 20mph design speed considered more appropriate. I have no reason to conclude otherwise.
13. The Local Highway Authority has indicated that the current design criteria for adoptable roads states that roads serving up to 50 dwellings should have a carriageway width of 4.8m, whilst roads serving over 50 dwellings should have a width of 5.5m with footpaths on either side. However, I have been provided with no details of the current design criteria and I am therefore, unable to offer it more than limited weight.
14. Nevertheless, Rose Valley currently serves in excess of 50 dwellings. The proposal would increase the number of dwellings using Rose Valley by 15 – a considerable proportion in my view. Between the junction of Meadow Lane and Rose Valley and the appeal site, the width of the road reduces considerably to around 3.6m at its most narrow. The appellant indicates that the narrow width of the junction has existed for some time and therefore it acts as a traffic calming measure. However, the width of the road would not allow for two cars to pass one another nor would it allow for safe pedestrian movements from the appeal site towards Meadow Lane. Whilst I note access to Rose Valley is available from Kinder Avenue, there would be nothing to prevent future residents from using the Meadow Lane junction.
15. It is indicated that the public house provides off road parking for 28 cars and, on occasions, the spaces are fully utilised with patrons having to park on-street. However, there is no substantive evidence before me to suggest that the existing public house creates more intensive vehicle movements than the proposed residential use would generate. I note that the proposal would reduce the existing number of parking spaces and that future occupants may not be car owners. However, there is no evidence before me that the proposal would result in a reduction in trip numbers or even that it would generate similar levels of vehicular movements to the existing use. Moreover, I agree with the Council that, in contrast to the proposed residential use, the vehicular movements to and from the public house are likely to be outside of peak times and that a number of patrons would visit on foot.
16. Manual for Streets (2007) (MfS) provides technical advice on stopping sight distances and visibility requirements. In respect of traffic with speeds of 20mph, MfS suggests a stopping sight distance of 25m, adjusted for bonnet length. The stopping sight distance assists in determining the length of visibility splays. Accordingly, in this instance the 'Y' distance should be 25m. MfS advises that the 'X' distance of 2.4m back from the carriageway should be used in most built-up situations.
17. The Council has raised no particular concerns in respect of visibility to the right of the access point. I have no reason to disagree. However, it is indicated that the forward visibility between the site access and the junction of Rose Valley and Meadow Lane around the front of the public house, at a distance of 1.5m

into the carriageway, would be between the 14m and 17m. The visibility would be further reduced to 11m once vehicles were 2.4m back from the carriageway edge as recommended in MfS. The proposal would, therefore, fail to achieve the minimum distances are required by MfS. There is no contrary evidence before me and I therefore see no reason to disagree with the Council's figures. Moreover, I was able to see from my site visit that the public house itself is a significant obstruction to the visibility of oncoming traffic along Rose Valley from the proposed site access. As a result, I am not satisfied that an adequate visibility splay to the left of the proposed access would be achieved and there would be, therefore, the potential for conflict between cars exiting the site and cars approaching from the left on Rose Valley.

18. I conclude, therefore, that the proposal would have a severe effect on highway safety, in conflict with Policy T6 of the LP which states that all new development should incorporate adequate provision for access. It would also conflict with Policy INF2 of the LPP1 which requires appropriate provision for safe and convenient access to and within the development for highway users. Finally, the proposal would conflict with paragraph 32 of the Framework which states that decisions should take into account whether safe and suitable access to the site can be achieved for all people.

Living Conditions

19. The appeal site adjoins the rear gardens of 12 Rose Valley, 2 Rambler Close and the gardens of the flats at 27-34 Chrysanthemum Court. The flats have windows at both ground and first floor which face onto the appeal site. 12 Rose Valley has a flank wall facing the appeal site whilst the rear elevation of 2 Rambler Close faces onto a small portion of the appeal site boundary.
20. The proposal would include apartments at first floor which would have lounge and bedroom windows facing 27-34 Chrysanthemum Court. In addition, there are apartments proposed in the first floor that would have bedroom windows with direct views into the gardens of 12 Rose Valle and 2 Rambler Close.
21. The Council indicates that it has adopted separation standards which would not be achieved with the 16m separation distance between the proposal and 27-34 Chrysanthemum Court, nor with the distance to the rear windows of 2 Rambler Close or the 5m distance from the boundary of 12 Rose Valley. Indeed, the Council's Housing Design and Layout Supplementary Planning Guidance states that distances between bedrooms and kitchen windows should be at least 18m.
22. Nevertheless, whilst the proposal would not achieve the Council's minimum standards, there is a significant level of dense vegetation along the boundaries of the appeal site. I have no reason to believe that the vegetation is under any threat of removal or that it would not be retained at its existing height for the foreseeable future. Indeed, it could be reasonably retained through a suitably worded condition. Furthermore, additional landscaping is proposed which could further assist in screening mutual overlooking between the proposal and neighbouring properties. In addition, the proposed windows would be at a relatively oblique angle to the garden of 12 Rose Valley and the rear of 2 Rambler Close. As a result, it is unlikely that the proposal would result in harmful levels of overlooking to neighbouring properties.

23. Whilst I note the existing trees currently have an effect on the living conditions of neighbouring occupiers, their retention as a result of the proposal would not materially increase the existing level of harm experienced by those residents.
24. I conclude, therefore, that the proposal would not have a harmful effect on the living conditions of neighbouring residents with particular regard to privacy. Consequently, the proposal would accord with Policy H11 of the LP which states that proposals for new housing development should provide reasonable amenities in terms of privacy for existing dwellings. It would also accord with Policy SD1 of the LPP1 insofar as it states that development should not adversely affect the amenity of existing or future occupiers. Finally, it would accord with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

25. I note the concerns of local residents regarding the proposal, however, I have no substantive evidence that the proposal would give rise to additional anti-social behaviour or have a negative impact on property values in the area. I am unable, therefore, to offer such concerns more than little weight.
26. The appellant has drawn my attention to a recent development nearby at the junction of Meadow Lane and Robinsons Road. Whilst I note that development is modern in appearance and three storeys in scale, I have limited detail of the approved scheme or the policies which applied at the time of its consideration. In any event, I have considered this appeal proposal on its own merits.
27. The Council has indicated that a contribution towards the provision of 2 school places is required to mitigate the effect of the proposal on nearby school capacity. I have not been provided with any mechanism which would deliver the required contribution. However, as the appeal is to be dismissed on other substantive issues, a conclusion either way on whether the proposal should make a contribution towards school infrastructure would not affect the overall decision.
28. I note the relatively sustainable location of the appeal site and the contribution the proposal would make towards boosting the supply of housing in the area. Such benefits are to be afforded significant weight. However, in this instance those benefits would be outweighed by the totality of the harm arising from the effect on the character and appearance of the area and on highway safety.

Conclusion

29. Whilst I have found that the proposal would not have a harmful effect on the living conditions of neighbours, I have found that it would result in harm to the character and appearance of the area and to highway safety. Those are the prevailing considerations.
30. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR

Appeal Decisions

Site visit made on 9 January 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 17th January 2017

Appeal A: Ref: APP/F1040/Y/16/3158229

5, 6 and 10 Grange Farm Court, Linton, Swadlincote, Derbyshire, DE12 6RP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Terence Browne against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0463/L dated 9 May 2016, was refused by notice dated 18 July 2016.
 - The works proposed is replacement of existing windows at Nos 5, 6 and 10 Grange Farm Court.
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Appeal B: Ref: APP/F1040/W/16/3158232

5, 6 and 10 Grange Farm Court, Linton, Swadlincote, Derbyshire, DE12 6RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Terence Browne against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0464 dated 9 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is replacement of existing windows at Nos 5, 6 and 10 Grange Farm Court.
-

Decision

1. **Appeal A:** The appeal is allowed and listed building consent is granted for the replacement of existing windows at Nos 5, 6 and 10 Grange Farm Court, Linton, Swadlincote, Derbyshire, DE12 6RP in accordance with the terms of the application, Ref: 9/2016/0463/L dated 9 May 2016, subject to the conditions set out in the Schedule attached to this decision.
2. **Appeal B:** The appeal is allowed and planning permission is granted for the replacement of existing windows at Nos 5, 6 and 10 Grange farm Court, Linton, Swadlincote, Derbyshire, DE12 6RP in accordance with the terms of the application Ref: 9/2016/0464 dated 9 May 2016, subject to the conditions set out in the Schedule attached to this decision.

Main Issue

3. I consider the main issue common to both appeals is the effect of the proposed development and works on the special architectural and historic interest of the Grade II curtilage listed buildings and the setting of the listed group.

Reasons

4. The appeal relates to three adjoining dwellings, being part of a group of former farm buildings which were converted to residential use about 10 years ago. The buildings are located to the north-east Grade II listed Grange Farm. Due to their physical proximity and former functional relationship to the farmhouse they may be considered as curtilage listed buildings in accordance with Section 5(2) of the *Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990* (the 'Act'). The proposal relates to the replacement of four (unauthorised) uPVC windows on the road facing elevation of the three dwellings with composite coloured wood grain effect windows.
5. As part of its considerations when granting planning permission for the original conversion, the Council says one of the key aims was to maintain the agricultural appearance of the buildings by ensuring that the layout and form of the development respected the agricultural origins of the barns, and for the conversion to be achieved with minimal external alterations. To this end normal permitted development rights for extensions and alterations, including replacement windows, were removed to retain control over future appearance.
6. Sections 16(2) and 66(1) of the Act require the decision-maker, in considering whether to grant listed building consent for any works affecting a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses. Saved Environment Policy 13 of the *South Derbyshire Local Plan, 1998* (LP) says alterations that would have an adverse effect on the fabric or character of a listed building will not be permitted. Policy BNE2 of the *South Derbyshire Local Plan Part 1, 2016* (LP1), says development that affects heritage assets will be expected to protect, enhance and conserve the assets and their settings in accordance with national guidance and supplementary planning documents. Policy BNE11 of the emerging *South Derbyshire Local Plan Part 2* (LP2) has similar aims.
7. Paragraph 132 of the *National Planning Policy Framework* (the Framework) says when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to that asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting.
8. The significance of a heritage asset is the sum total of its heritage values, and I agree with the Council that historic windows will usually be of such significance that every effort should be made to conserve them, as most historic windows will illustrate to varying degrees the materials, technology, craftsmanship and architectural taste of the period. The Council says that although the single-glazed painted windows installed as part of the conversion works were modern replacements, they nonetheless contributed to the character of the group of listed buildings, added to their interest through the use of traditional materials, and maintained the aesthetic value of the heritage assets.
9. However, as shown in the '*Residence 9 Windows and Doors*' marketing information submitted with the application, the proposed windows attempt to replicate the flush design of more traditional timber windows, and those proposed here do not feature inappropriate modern details such as stub cills and opening lights that sit proud of the window frame. Significantly, the proposal does not relate to the replacement of windows that were part of the

historic fabric, and the only real difference compared with the timber windows installed about 10 years ago is the material from which they are made. The Council's *Historic South Derbyshire Supplementary Planning Guidance* says external joinery should be painted timber, and that stained timber, aluminium and uPVC will not normally be permitted. Nonetheless such guidance should not necessarily be followed prescriptively, and whilst a composite material is not normally favoured in heritage assets, in this case I consider the proposed windows would be more sympathetic to the character of the building than the existing uPVC windows, which are somewhat clumsy in proportion and profile.

10. Furthermore, the windows would not be seen in the context of the other surviving single-glazed timber windows elsewhere in the group, but in the context of the white uPVC windows of the adjacent Wheatmere Cottage and the large blue-coated aluminium windows at Nos 6 and 7 to the rear of this range. Although the Council states that no planning permission or listed building consent was sought to change these windows from the previous painted timber joinery, there is now a considerable variety in the finish, design and material of the other windows and openings within the group of buildings, and this is now part of their present character and appearance.
11. I accept that the proposed windows would subtly alter the character and appearance of the curtilage listed buildings. However, taking into account the particular circumstances and having carefully considered all the evidence, I conclude that the proposed works would preserve the special architectural and historic interest of this Grade II curtilage listed building and the setting of the listed group, causing no harm to the significance of the heritage assets. As such, I find no conflict with saved LP Environment Policy 13, LP1 Policy BNE2, emerging LP2 Policy BNE 1 and the provisions of the Framework.
12. The Council says a precedent would be set for replacement windows of a similar type elsewhere in the group of buildings. However, each application and appeal has to be assessed on its own merits, and given my conclusion regarding the effect of the proposal I do not consider that a harmful precedent would be set.

Conditions

13. I have considered the conditions put forward by the Council in the light of the advice in the Government's *Planning Practice Guidance*. Conditions are needed in both appeals to secure compliance with the submitted plans and accompanying information for the avoidance of doubt and in the interests of proper planning. I agree that full constructional details and details of the finished colour of the windows are needed to safeguard the special architectural and historic interest of the buildings.

Conclusion

14. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeals should be allowed.

Nigel Harrison

INSPECTOR

Schedule of Conditions

Appeal A: Ref: APP/F1040/Y/16/3158229

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The works shall be carried out in accordance with the location plan, details, photographs and appendices accompanying the application and dated 9 May 2016.
- 3) Notwithstanding condition No 2 above no works shall take place until large scale drawings to a minimum Scale of 1:10 of the replacement windows, including horizontal and vertical sections, precise construction method of opening and cill details have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 4) No works shall take place until details of the colour finish of the windows hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Appeal B: Ref: APP/F1040/W/16/3158232

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the location plan, details, photographs, and appendices accompanying the application and dated 9 May 2016.
- 3) Notwithstanding condition No 2 above no development shall take place until large scale drawings to a minimum Scale of 1:10 of the replacement windows, including horizontal and vertical sections, precise construction method of opening and cill details have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the colour finish of the windows hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Appeal Decision

Site visit made on 9 January 2017

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/F1040/W/16/3159184

White Lodge, Staker Lane, Mickleover, Derby, DE3 0DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Smyth against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0568 dated 2 June 2016, was refused by notice dated 26 August 2016.
 - The development proposed is the reconfiguration and conversion of the existing dwelling and outbuildings at White Lodge Farm into three dwellings with associated landscaping, parking and infrastructure.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council has raised no objections in principle to the reconfiguration of the existing dwelling to form two dwellings (Plot A and Plot B). Its main objection concerns the new dwelling proposed on the site of the existing outbuildings and former farm buildings (Plot C). Based on what I have seen and read, I find no reason to disagree.
3. I therefore consider the main issues in this case are: 1) whether the proposal would be consistent with the Council's development strategy concerning the location of new development; and 2) The effect of the proposal on the character and appearance of the surrounding countryside.

Reasons

Development Strategy-Location of New Development

4. At the heart of National Policy as stated in paragraph 14 of the *National Planning Policy Framework* (the Framework), is a presumption in favour of sustainable development. For decision making this means approving proposals which accord with the development plan without delay, and, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Notwithstanding the general presumption in favour of sustainable development, Paragraph 2 of the Framework reiterates the statutory position that applications for planning permission must be

determined in accordance with the development plan unless material considerations indicate otherwise.

5. The Local Plan comprises the *South Derbyshire Local Plan Part 1*, adopted 2016 (LPP1), and saved policies from the *South Derbyshire Local Plan* (LP), adopted 1998. The site lies outside the confines of any settlement boundary and consequently for policy purposes falls within the countryside. LP Part 1 Policy H1 sets out the hierarchy of settlements and states that, outside settlement boundaries, only development limited to infilling and conversions of existing buildings will be acceptable.
6. Saved LP Environment Policy 1 seeks to restrict any new development in the countryside unless it is essential for a rural based activity or is unavoidable in the countryside, and also requires the character of the countryside to be safeguarded and protected. Saved LP Housing Policy 8 has similar aims, and sets out the criteria against which applications for housing outside settlements will be judged. It states, amongst other considerations, that new housing will only be permitted where it is necessary for an established long term rural business activity or where it is demonstrated that a countryside location is necessary. These aims respect the requirements set out in Section 11 of the Framework that the planning system should contribute to and enhance the natural and local environment, and one of the Framework's core principles that planning should recognise the intrinsic character and beauty of the countryside.
7. The proposed new dwelling at Plot C does not fall within any of the permitted exceptions relating to residential development in the countryside as set out in the above policies.
8. Although no figures have been provided, the Council says it can now demonstrate a five year supply of deliverable housing sites, and this does not appear to be disputed by the appellant. Therefore, in accordance with Paragraph 49 of the Framework, I am satisfied that relevant policies for the supply of housing (which include LPP1 Policy H1, saved LP Housing Policy 8, and saved LP Environment Policy 1) may be considered up-to-date when assessing proposals for sustainable development, and can be afforded full weight.
9. The appellant says the Framework strongly prioritises the redevelopment of 'brownfield' land. However, the definition of brownfield or previously developed land set out in Annex 2 to the Framework excludes land that has been occupied by agricultural or forestry buildings. Therefore, the site of proposed dwelling at Plot C, which is largely occupied by a former farm building, cannot be categorised as 'brownfield' land.
10. Furthermore, paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It clearly states that isolated new homes in the countryside should be avoided unless there are special circumstances. It lists four examples of such circumstances, and the proposal does not fall within those listed.
11. I therefore conclude on this issue that the proposal would be contrary to the Council's development strategy concerning the location of new development which seeks to direct development to the main towns and villages in the District and avoid encroachment into the countryside. As such it would conflict

with LPP1 Policy H1, saved LP Environment Policy 1, saved Housing Policy 8, and National planning policy in the Framework.

Effect on the surrounding countryside

12. The proposed conversion of part of the existing dwelling and an outbuilding to form a second dwelling (Plot B) has been designed sympathetically and respects the character of the buildings. However, the Council's main concern relates to the overall bulk and design of the proposed new dwelling at Plot C, saying it would have an unacceptably urbanising impact on the character and appearance of the surrounding countryside. Saved LP Environment Policy 1 (B) states that if development is permitted in the countryside it should be designed and located to create as little impact on the countryside as possible.
13. I share the Council's view that the somewhat bulky design of the proposed dwelling, with its wide span and shallow gables, would be of a form that fails to respond to local character and context, and to my mind would have a somewhat suburban in appearance out of keeping with the existing dwelling and surrounding area. Particularly given the prominent exposed location of this dwelling on the edge of fields and visible from public vantage points, I am not persuaded that the proposal would meet the aims of LP Environment Policy 1 to minimise impact on the countryside.
14. The appellant says the proposal would balance out any harm to the countryside by securing the removal of poor quality outbuildings, particularly the large redundant Dutch barn, and this would improve the appearance of both the site and the surrounding area. Nonetheless, this building is nonetheless part of the rural fabric of the area, and I do not consider this a good argument, as it could be repeated too often as a means of justifying an otherwise unsatisfactory form of development.
15. Paragraphs 56 and 57 of the Framework advocate high quality design, with good design being a key aspect of sustainable development that is indivisible from good planning. Paragraph 64 adds that permission should be refused for development of poor design that fails to take opportunities for improving the character and quality of an area. Whilst I accept there is always scope for good, innovative design, I consider the new dwelling manifestly fails to achieve this objective. Nor would it reflect the rural setting or the appearance of the existing dwelling on the site. Overall, I conclude on this issue that the proposed new dwelling at Plot C would cause significant harm to the character and appearance of the surrounding countryside. Consequently the proposal would conflict with saved LP Environment Policy 1 and the Framework.

Other Matters

16. The appellant has referred to an appeal decision elsewhere in the District where permission was granted for residential development in what is seen as similar circumstances.¹ The Inspector on that occasion concluded that the development (three dwellings) would not extend the settlement into the countryside and would not cause material harm to the village. However, the circumstances are not directly comparable as the Inspector recognised that the dwellings proposed in that case 'would be surrounded by and well-related to existing houses and other development, and would not appear as isolated

¹ Ref: APP/F1040/A/13/2189991, Manor Cottage, Hillside Road, Linton

development in the countryside'. In contrast, White Loge is an isolated property well away from the nearest settlement with only sporadic development nearby. In any event, each application and appeal falls to be considered on its own merits.

Conclusion

17. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. It is therefore necessary to determine whether the proposal is sustainable in the wider realm in the context of the wider Framework. Paragraph 7 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The provision of new housing would represent a social benefit, albeit a very modest one, and in addition there would be some support for local services and amenities, thus amounting to an economic benefit, although there is little scope to access to any of these services and amenities other than by means of the private car.
18. However, I have found that the proposal would be contrary to the development strategy for the area as set out in the Local Plan, and would be harmful to the character and appearance of the surrounding countryside. The adverse environmental harm which I have identified would substantially and demonstrably outweigh any potential social and economic benefits of the appeal scheme.
19. For these reasons I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Therefore the presumption in favour of such development does not apply.
20. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR

Appeal Decision

Site visit made on 9 January 2017

by **Nigel Harrison BA (Hons) MRTPI**

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

Decision date: 18 January 2017

Appeal Ref: APP/F1040/W/16/3158335

464 Burton Road, Midway, Swadlincote, Derbyshire, DE11 0DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Sheridan against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0691 dated 5 July 2016, was refused by notice dated 26 August 2016.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I am also dealing with another appeal by the same appellant at this address for an advertising board (Ref: APP/F1040/Z/16/3163329). However, the two appeals are unconnected and the subject of separate decisions.

Main Issues

I consider there are three main issues in this case. Firstly, the effect of the proposed dwelling on the character and appearance of the surrounding area; secondly, the effect of the proposal on highway safety; and thirdly, the effect of the proposal on the living conditions of the occupiers of No 462 Burton Road and No 466 Burton Road in relation to overlooking, privacy, and potential noise disturbance.

Reasons

3. At the heart of National Policy as stated in paragraph 14 of the *National Planning Policy Framework* (the Framework), is a presumption in favour of sustainable development, and for decision making this means 'approving proposals which accord with the development plan without delay'. Notwithstanding this general presumption, Paragraph 2 of the Framework reiterates the statutory position in Section 38(6) of the *Planning and Compulsory Purchase Act 2004* that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Character and Appearance

4. The appeal site comprises part of the rear garden of No 464 Burton Road. The appeal site is at a significantly lower level than the house and the neighbouring
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- dwellings. The proposed dwelling would occupy part of the garden where the levels were changed and a large hole excavated to accommodate a swimming pool, although this work was not completed. The site lies within the settlement boundary although directly abuts open countryside to the north.
5. Policy H1 of the *South Derbyshire Local Plan Part 1*, adopted 2016 (LP) states that development of all types within the settlement boundaries will normally be acceptable in principle, and that the merits of each individual site will be considered through the development management process. LP Policy S2 relates to sustainable development and states that the Council should grant planning permission unless material considerations indicate otherwise.
 6. I acknowledge that the pattern of development in the wider area is more varied with a wide mix of housing types and some development in depth, some examples of which are referred to by the appellant. However, to my mind the appeal site relates most closely to the linear pattern of the ribbon development extending along the ridge from No 454 Burton Road westwards, rather than to the area to the east where some 'in depth' development can be found. Although some of the rear gardens in the vicinity contain buildings and structures such as sheds and garages, there is no other tandem residential development in the vicinity.
 7. Due to the topography, I accept that the proposed dwelling would not easily be seen from the road frontage. However, this is an exposed location and the dwelling would be clearly visible from open countryside to the north and detract from the currently open aspect. The fact that there are no public footpaths nearby from which the dwelling could be seen in close quarters does not help to justify the proposal in any way. Even though each application and appeal is considered on its own merits, as other nearby properties present similar opportunities, allowing the appeal would set a precedent which others could follow, and the cumulative effect of this would lead to more serious harm to the character of the area.
 8. LP Policy BNE1 refers to design excellence and requires new development to be well designed and respond to a number of design principles including local character and context, and having regard to valued landscape, townscape and heritage characteristics. Policy BE4 requires new development to protect and the character, local distinctiveness and quality of the landscape through the careful design and sensitive implementation of new development. The Council's *Housing Design and Layout Supplementary Planning Guidance* (SPG) has similar aims, and says inappropriate design that does not respect local distinctiveness will be resisted unless the applicant can justify why a particular design has been chosen.
 9. I share the Council's view that somewhat unorthodox design of the dwelling would fail to respond to local character and context, and to my mind it would appear incongruous and out of keeping with other dwellings nearby. Existing properties along Burton Road tend to be fairly conventional two storey houses and bungalows with pitched roofs, whereas the proposed dwelling has a bulky, somewhat box-like design with a particularly unusual roof arrangement, being part flat-roofed viewing terrace and part open-fronted area with a mansard roof over. The north-facing elevation would consist almost entirely of large picture windows and balconies, whereas in contrast the south elevation would appear oppressive, with a large blank expanse of brickwork relieved by only

two window openings. The side elevations would also be rather ungainly, being part flat-roofed/ two-storey, and part three-storey/ pitch-roofed.

10. I also have concerns in relation to some discrepancies on the submitted drawings. For example, although continuous balconies are shown on the elevations, these do not appear on the floor plans. Also what happens at roof level is unclear, with the purpose of the open-fronted roofed accommodation not being stated, and with no access to the roof level apart from a narrow external spiral stair. The appellant says some cues for the design have been taken from a recently constructed dwelling in a prominent position to the north-west. However, even though similar materials are used, that dwelling is far more traditional in appearance and in keeping with the local character.
11. Paragraphs 56 and 57 of the Framework advocate high quality design, saying that that good design is a key aspect of sustainable development that is indivisible from good planning. Whilst I accept there is always scope for good, innovative design, I consider that the appeal proposal manifestly fails to achieve these objectives. Overall, I conclude on this issue that the dwelling would cause significant harm to the character and appearance of the surrounding area. It would conflict with LP Policies BNE1 and BNE4, advice in the SPG, and National Policy in the Framework.

Highway Safety

12. Access is proposed via a new driveway from Burton Road at the western extremity of the site frontage. The Highway Authority states that the minimum visibility splays required at the access would be 2.4m back from the carriageway edge and 43m in each direction along the highway. It is evident that this standard of visibility cannot be achieved in the western as it relies on land outside the appellant's control. Nonetheless, the appellant considers that traffic speeds are sufficiently low such that traffic entering and leaving the site could do so safely, and traffic approaching the access would be aware of slowing down or emerging vehicles using the proposed access. The appellant also says there are many instances locally where these standards have been applied flexibly where full visibility sightlines cannot be achieved.
13. However, I find no reason to disagree with the professional views of the Highway Engineer. Any additional turning manoeuvres onto or off a road of this type represent a potential hazard and further potentially hazardous situations could arise as visitors to the property unfamiliar with its location may have difficulty in seeing in advance where the access is. This too would impede the free and safe flow of traffic leading to danger and inconvenience to other highway users.
14. I therefore conclude on this issue that the proposal would be harmful to highway safety. As such, it would conflict with LP Policy INF2 and Paragraph 32 of the Framework which makes it clear that all development proposals should seek to ensure that safe access to and from sites can be achieved.

Living Conditions

15. Side-facing windows in the proposed dwelling would face towards the adjacent bungalow to the east (No 462), which has a conservatory to the rear with dormer bedroom above. Notwithstanding the oblique angles and change in levels, clear views would be obtained from the 'exercise room' window towards

- No 462's rear-facing windows and conservatory, and the required separation distance of 21m recommended in the SPG could not be achieved. This would result in unacceptable overlooking and reduction in privacy levels.
16. The adjacent bungalow to the west (No 466) lies adjacent to the proposed access, and has a habitable room window facing towards it. The proposed driveway would be so close to the common boundary that there would be no space for any meaningful planting or screening that might help mitigate the potential noise and other disturbance arising from the coming and going of vehicles on the proposed drive. As such I consider that the new vehicle activity in this area would have an adverse impact on the living conditions of the occupiers of that property.
17. I therefore conclude on this issue that the proposal would materially harm the living conditions of the occupiers of No 462 and 466 Burton Road, contrary to the aims of LP Policy SD1 concerning amenity and environmental quality.

Conclusion

18. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development. It is therefore necessary to determine whether the proposal is sustainable in the wider realm in the context of the wider Framework. Paragraph 7 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The provision of new housing would represent a social benefit, albeit a very modest one, and in addition there would be some support for local services and amenities, thus amounting to an economic benefit. I also accept that there are good transport links to the town centre, employment, shopping and other facilities.
19. However, my conclusions with regard to the harmful environmental impacts of the proposal on the character and appearance of the area, highway safety, and the living conditions of the occupiers of neighbouring property represent significant and overriding objections which must be decisive. The adverse harm I have identified would demonstrably outweigh and potential social and economic benefits of the appeal scheme. For these reasons I conclude that the proposal would not be consistent with the principles of sustainable development as it conflicts with the policies of the development plan and the Framework when taken as a whole. Therefore the presumption in favour of such development does not apply.
20. For the reasons given above and taking into account all other matters before me, including the representations of local residents, I conclude that the appeal should fail.

Nigel Harrison

INSPECTOR