

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

**[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).

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## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2020/0422</a>	1.1	Woodville	Woodville / Midway	6

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

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

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMPA/2020/0422](#)

**Valid date:** 28/05/2020

**Applicant:** Sally Smith  
Bellway Homes (East Midlands)

**Agent:** Georgina Doyle  
Pegasus Planning Group  
4 The Courtyard  
Lockington  
Derby  
DE74 2SL

**Proposal:** Approval of reserved matters (layout, scale, appearance and landscaping) for erection of 148 dwellings along with creation of roads and public open space pursuant to outline permission ref. 9/2016/0882 (phase 3) on Land at Broomy Farm (east of Lincoln Way and Salisbury Drive), Woodville Road, Hartshorne, Swadlincote

**Ward:** Woodville / Midway

### Introduction

*This application was deferred by the Committee firstly at the meeting on 22 September 2020 in order to explore the potential for securing a school drop off/pick up area which could serve a new rear pedestrian access to Granville Academy. The application was deferred again at the meeting on 15 December for further negotiations in an effort to secure this.*

*Since the committee meeting the applicants promptly requested a meeting with officers to discuss the deferral and a summary of their position is given below.*

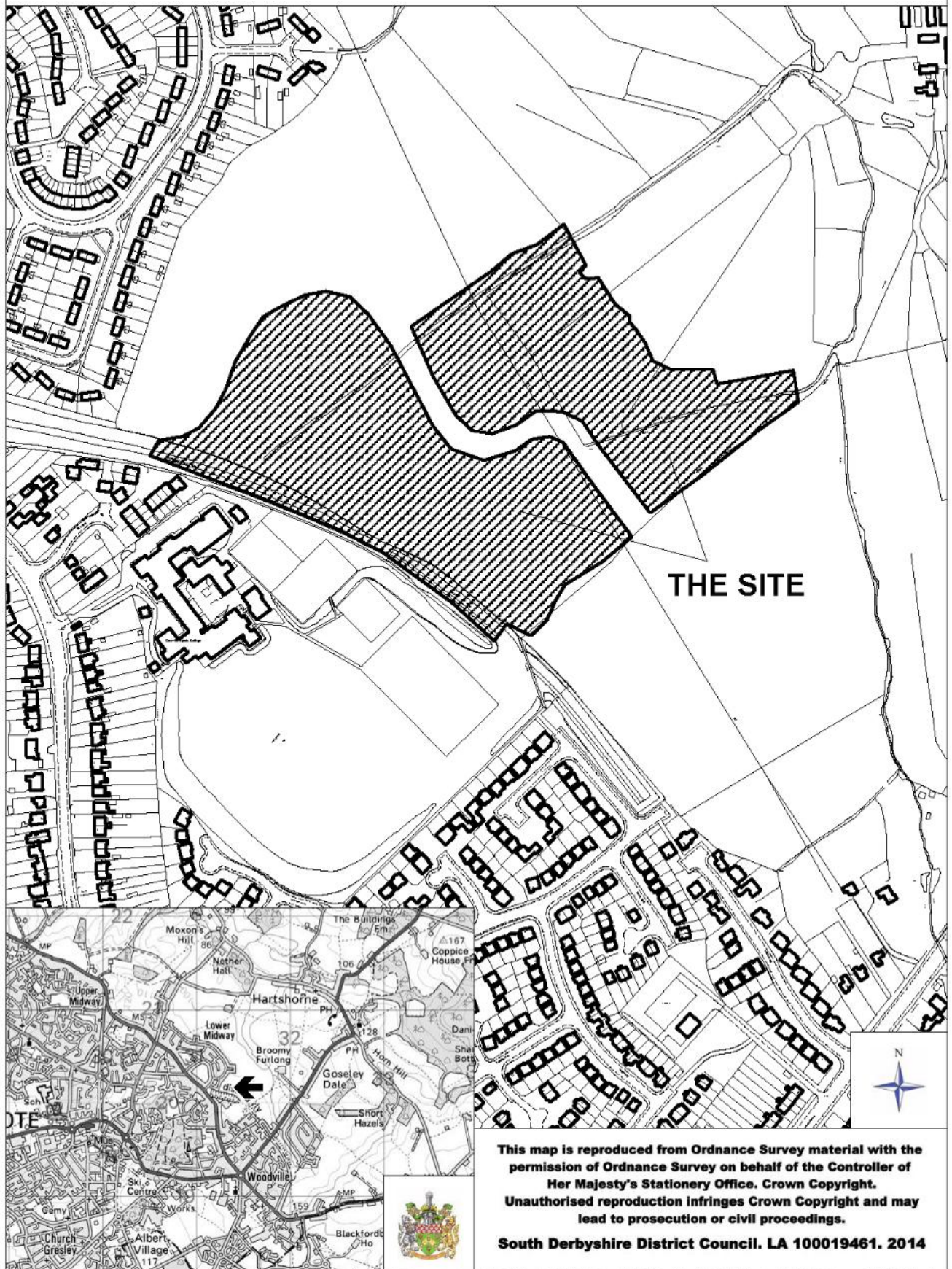
### Applicants additional comments

*The Broomy Farm site benefits from outline planning permission under reference 9/2016/0882. This permission is a S.73 decision pursuant to the earlier outline planning permission. Access was approved by the outline permission; all other matters were reserved. Whilst seeking planning permission for a "new school pick up/drop off area", the outline planning permission does not bind or obligate the applicant to deliver this element of the proposal. They draw attention to Condition 3 of the outline planning permission which requires that "The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref: EMS.2383-009C) and Design and Access Statement.....". The inclusion of the words "broadly be in accordance with" do not bind delivery of the reserved matters to the masterplan in the strictest sense, and in the absence of any other condition or planning obligation relating to this matter specifically, the reserved matters do not need to conform to every detail of the masterplan.*

*Bellway Homes are one of the UK's largest house builders and they take great pride in the nature and quality of their developments. Bellway have continually embraced the planning permission and have always sought to deliver the school drop off/pick up area.*

*Turning to the opinions of the Granville Academy. Bellway has continually liaised with the school to ensure that this infrastructure meets with approval and operational requirements. The point of connection currently proposed on the southern perimeter of the school site is where the school has asked that the connection to be taken to. The school have made it very clear that they do not (at the current time) wish to utilise the connection. On the basis that the school is not the applicant or in any way subject to the planning application, the school's opinions should be respected, and there is no basis to require the school to accept any connection beyond their perimeter. The connection point proposed, is, as requested by the school.*

**DMPA/2020/0422 - Land at Broomy Farm (east of Lincoln Way DE11 7LB and Salisbury Drive 7LE), Woodville Road, Hartshorne, Swadlincote DE11 7EY**



To assist the Committee, they have produced a more detailed connectivity plan that shows the following:

- a) The approved development of Phases 1 and 2.
- b) The proposed development comprising Phase 3 – This RM application.
- c) The proposed (but not for consideration at current time) development of Phase 4.
- d) The schools proposed and agreed point of connection to the school site.
- e) The provision of all pedestrian connection to the schools preferred point of connection and within the wider area.

### **Officer comments**

*The applicant's additional connectivity plan is included in the presentation to the committee. It is considered by officers that this demonstrates that the applicants have designed their layout in such a way as to maximise the pedestrian connectivity to the southern point of the school site which is the access point requested by the school.*

*A reserved matters application cannot revisit matters of principle that were within the remit of the outline application. The fundamental question for the committee is whether the layout now proposed by the applicant is acceptable within the parameters set by the outline permission. In this regard condition 3 of the outline permission stated the reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref: EMS.2383-009C) and Design and Access Statement.....This illustrative masterplan included the pick- up /drop-off area in addition to various points relating to high quality design such as connectivity and permeability through the site.*

*In assessing the acceptability or otherwise of the layout, is it also important to consider that there was no condition attached to the outline permission explicitly requiring the pick-up/ drop-off point. This was shown to include land within the school site (therefore requiring the school's permission). A further point in this context is the extent to which the applicant has addressed matters within their control. Specifically, it remains the officer view that there is no shortcoming within the applicants proposed layout, with regard to safe access to the school site, should the school wish to 'open up' the southern access point in the future. the applicants have gone to significant efforts to engage with the school to reach an acceptable solution and it is this option that is presented within this application.*

*In summary on this issue the positions of the applicants and the school are clear. The proposed layout is considered to facilitate safe access to the point favoured by the school for a second pedestrian access to the school site. Any action or inaction on the part of the school to utilise this access point cannot form the basis of a decision on this application from Bellway Homes.*

*The remainder of the report remains as previously presented except for changes in the appraisal section, shown in italics or ~~striketrough~~ where no longer relevant or applicable. Similarly, any addition conditions are shown in italics.*

### **Reason for committee determination**

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

### **Site Description**

The site subject of the current reserved matters submission comprises phase 3 of the residential allocation known as Broomy Farm. This phase covers the parcel of land to the west of the allocation, which shares the majority of its external boundary with Granville Academy. Internally the parcel is sited in-between phase 1 (adjacent to Lincoln Way and accessed off the A511 (Burton Road)) and phase 2a (adjacent to and accessed from Hartshorne Road).

The allocation amounts to a total area of 27.5 hectares and occupies an area of former arable land,

and a disused railway cutting to the east of Granville Academy. The site also falls within the National Forest and geographically it is adjacent to the settlements of Midway and Woodville. Land levels vary considerably across the site, with levels falling to the west. A mature belt of landscaping currently exists along the western boundary, but many internal landscape features have been cleared. The site accesses (approved under the outline) have been constructed and lead to this phase and the development of phases 1 (70 dwellings) and 2a (180 dwellings) are currently underway.

## **The proposal**

This application seeks approval for the layout, scale, appearance and landscaping relating to Phase 3, for the erection of 143 dwellings along with the provision of open space facilities. The application proposes a mix of 1, 2, 3 and 4 bed detached semi-detached and terraced properties including 16 affordable dwellings arranged in two clusters across the site. A large open space accommodating the LEAP, sited to the east of the dwellings is illustrated along with two other parcels of open space; one adjacent to the western boundary and the other within the sites eastern tip. Formal and informal pathways are shown throughout the development connecting this phase to adjacent phases. Dwellings would front onto the tree lined spine road (previously approved) which meanders through the wider development, continuing the development pattern previously secured. Leading from the spine road would be range of more minor streets, including cul-de-sacs. The design of the dwellings are characterised by traditional details such as tile creasing cills and brick heads combined with fascia and soffits eaves details and the window and door styles are a cottage style to pick up on vernacular references.

## **Applicant's supporting information**

The Design Compliance Statement provides a brief explanation of the minor deviations and enhancements to the outline scheme which, it is stated will result in a development that is not substantially different in scale and nature from the scheme identified on the original Masterplan/Outline submission. The document continues that a full site analysis and study of the surrounding context has previously been included in the Design and Access Statement submitted with the Outline. The document includes sections on use and amount, layout and scale, landscaping, appearance and access.

The Arboricultural Method Statement provides the methods of protection and pruning requirements for retained trees at the site. This statement is supported by an updated Tree Survey Plan and Tree Retention Plan produced in April 2020 and submitted alongside the reserved matters application. The report outlines the methodology by which construction will be undertaken in order to safeguard trees in a satisfactory condition during the construction. This method statement sets out a definitive account for the treatment of retained trees and specifies industry approved construction methods.

The Framework Travel Plan mirrors the approved Travel Plans prepared for the earlier phases of the development. It sets out the opportunities to travel by sustainable modes of transport that would be available to the new residents. It explains the forecast modal split of journeys to the whole development of 400 houses, using figures agreed during the outline planning application. Various objectives are set, along with a primary target of reducing single occupancy car journeys by 10%. Timescales for achieving that target, and further secondary targets are explained, along with a list of measures that Bellway are committed to implement to achieve the targets. Those measures include the appointment of a Travel Plan Co-ordinator to implement and monitor the Travel Plan process and the provision of travel information via travel welcome packs. A monitoring regime is also proposed to ensure that the Travel Plan achieves the objective and targets, including annual travel surveys and the preparation of annual monitoring reports. Finally an action plan summarises the various elements, who is responsible for them, along with their timescale.

The Drainage Statement explains that Phase 3 of the Broomy Farm development comprises part of a wider development area which is subject to a comprehensive drainage strategy. Specifically in relation to phase however the drainage would comprise of the following:

- Foul water drainage - Foul water flows will connect into a conventional sewer system and pass flows generally downhill towards the north east where they will connect onto an existing 375mm diameter foul sewer operated by Severn Trent Water Ltd.
- Land drainage - This phase of development would intercept an existing land drain from the railway cutting to the west. The diverted drain skirts around the development and falls with the topography of the site to an open section to the south of the proposed public open space. The existing open section of ditch would be retained within open space and its alignment is modified to allow it to meander. Downstream of this point a further piped section is returned to open channel to allow for ecological enhancement.
- Surface water drainage - Surface water flows would connect to a conventional sewer system and pass flows generally downhill towards the north east. At the extent of the development the sewers would discharge into a large attenuation feature permitted as part of a previous reserved matters phase. This feature includes areas of permanent water, varying bank slopes and bed swales to allow for water quality improvements and ecological enhancement. Flows will be attenuated to the pre-development greenfield run off rate as identified in the flood risk assessment that accompanied the Outline Planning Consent for this development. Surface water will be attenuated up to the 1 in 100 year level plus a 40% allowance for climate change before being discharged into the Watercourse.

The Landscape and Ecological Management Plan (LEMP) provides guidance for the continued management of public open space/landscaped areas associated with the development. This LEMP covers phases 1-3 as phases 1 and 2 LEMPs have already been approved. Therefore this report seeks to demonstrate the management of phase 3 only (albeit phase 1 and 2 are included to provide context). The document sets out the management and maintenance regimes for the public open space (associated with residential phases 1, 2 & 3), including the structural landscape areas to primary highways, the linear green routes for pedestrian and cycle use, open space associated with the children's play area, the existing riparian corridors and proposed attenuation areas, existing retained field boundary tree, shrubs and hedgerows, and the areas of proposed National Forest planting, within the site and in the area to be known as Jessie's Wood. It is explained that the procedures set out are based on the initial five-year period, to enable the establishment of the landscape elements. In the long term it is explained that these procedures should be utilised and adjusted (where appropriate) to help provide ongoing maintenance methods that will serve to protect and enhance the landscape for years to come. It is explained that management procedures will be monitored in terms of their success in delivering the 'desired status' within the various landscape and ecological management areas, and if necessary alternative measures will be adopted/considered as part of an annual review of the management plan. In regards to the ecological and landscape objectives, it is explained that the key objectives of the landscape scheme that accompany this proposal are to enhance the existing landscape and ecological resource (retaining any existing vegetation of good quality where appropriate), provide public access as indicated on the plans and secure appropriate habitat for the wildlife identified/surveyed to be in existence on the site.

The Ecological Appraisal Update sets out that the Extended Phase 1 Habitat Assessment was completed on 14th April 2020 to identify any significant changes in habitat composition recorded on surveys undertaken in March 2013, April 2014, March 2017 and April 2018. The report initially provides a description of the site, its habitats and the species considered. It then continues to confirm that the site is not covered by any statutory designated site and that no statutory sites with local, national or European level designation exist within a 1km radius, that there are no SSSI's within a 2km radius and no Special Protection Areas, or Special Areas of Conservation within a 5km radius of the site.

In regards to Non statutory sites, it is identified that the Woodville Disused Railway (pLWS) is situated in the south west of the site, which has been highlighted as a potential unimproved grassland site. However within the assessment, the habitats in this area were not identified as meeting the criteria to be designated as unimproved grassland and therefore the loss of this was not considered to be detrimental. Further, through the implementation of areas of species rich grassland and future management of the species rich grassland, the development proposals were identified as ensuring no net loss to biodiversity and likely positive affects to biodiversity locally.

The report acknowledges that development of the site would result in loss of the waterbody which was present in the north of the site. It is explained that this habitat was of local level value only and its loss would therefore be unlikely to result in significant negative effects to the local biodiversity resource and that mitigation for this loss has been provided within the balancing facilities constructed as part of the wider development. It is also recognised that the layout has been designed to retain as much of the existing hedgerows on the boundaries of the site as feasible, and whilst there would be some loss of hedgerow within the central area of the site, to comply with the NPPF, mitigation for loss of the hedgerows will be provided through the creation of new native species hedgerow in the wider development. The report also identifies that the development would provide 30% of the site area as green space in-line with the planting guidelines detailed in The National Forest Strategy (2014-24). In regards to bats, the report identifies that no features have been noted on site with potential to support roosting bats and consequently the proposed development would not impact on roost sites. Great Crested Newts have not been recorded as present within the site or accessible neighbouring waterbodies during targeted surveys undertaken in 2013 and 2018 and therefore this species is not considered likely to be present and is not considered to be a constraint to development. Similarly no evidence of reptile species has been recorded and therefore reptiles are considered likely absent from the site and are not considered to be a constraint to the development.

### **Relevant planning history**

DMPA/2019/1327 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (for the erection of 10 plots in lieu of 8 previously approved under reserved matters approval ref. 9/2018/0767, along with substitution of remaining housetypes and adjustment to plot boundaries, relating to former plots 117-120, 144-145 & 160-161) – Approved December 2019

DMPA/2019/0893 - Approval of reserved matters for layout, scale, appearance and landscaping of spine road through phase 1a and 1b (in part) and approval of reserved matters for layout, scale, appearance and landscaping of the public open space areas for phase 1a and 1b (in part) - Approved October 2019

9/2019/0382 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phase 2a only for the erection of 70 dwellings, along with layout, scale, appearance and landscaping of public open space areas and layout, scale, appearance and landscaping of the spine road for phase 1b (re-plan) and 2a. under outline permission ref. 9/2016/0882 - Approved August 2019

9/2019/0355 - The erection of a boundary entrance feature – Approved August 2019

9/2019/0291 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetypes relating to plots 82-87, 93-95, 110 and 113-114) – Approved May 2019

9/2019/0290 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 18) – Approved May 2019

9/2019/0289 - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/0882 (substitution of housetype relating to plot 3) – Approved May 2019

9/2018/0767 - Approval of reserved matters for layout, scale, appearance and landscaping relating to phases 1a and 1b only for the erection of 180 dwellings, along with layout & landscaping of public open space areas for phase 1 only (re-plan) under outline permission ref. 9/2016/0882 - Approved November 2018

9/2017/0730 - Approval of reserved matters (in so far as layout & appearance for the spine road for the whole site and layout & landscaping of public open space areas for phase 1 only) - Approved June 2018

9/2016/0882 - Variation of conditions of outline application ref. 9/2014/0740 - Approved June 2018

9/2014/0740 - Outline application (all matters except for access reserved) for the erection of up to 400 dwellings and provision of new school pick up/drop off area, together with associated highway works, public open space, landscaping, parking and attenuation facilities - Approved July 2016

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

Derbyshire Wildlife Trust has raised no objection.

The County Highway Authority has raised no objection subject to conditions.

Peak and Northern Footpaths have raised no objection subject to the footpath adjacent to the site remaining unobstructed and a safe road crossing point being provided for users of the footpath.

The Council's Landscape Architect has requested that hedgehog access is incorporated into boundary wall and fences.

The Strategic Housing Officer has raised no objection.

The Police Architectural Liaison Officer has raised concerns in relation to the use of post and wire fencing as a form of boundary treatment on specific plots.

Hartshorne Parish Council objects to the application on grounds that there is not enough consideration to health and safety regulations with regard to the security of the site and that there appears to be no clear indication of the entrance from off the estate into Granville School.

Two representations have been received, one of neutral stance and one objecting. These raise the following points:

- a) Queries relating to landslip and associated boundary and landscaping issues (including falling branches) along with land ownership queries.
- b) There is no access from this development to Granville School, which would provide a safe route to the school and encourage them to access the school by foot.
- c) An administrative boundary between Woodville and Hartshorne dissects the site, the road layout should be realigned along this route to avoid future confusion in democratic processes.

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

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H4 (Land at Broomy Farm, Woodville), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), INF2 (Sustainable Transport) and INF8 (The National Forest)
- 2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Affordable Housing SPD

The relevant national policy and guidance is:

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

## Planning considerations

The wider site received outline planning consent for up to 400 dwellings and ancillary infrastructure in 2016. The outline permission 'fixed' the access points to Burton Road and Woodville Road. Since this time there have been subsequent applications made, including a variation of conditions application to the outline consent, along with a number of reserved matters submissions. The outline permission requires the submission of certain details alongside each reserved matters submission (in so far as relevant to that submission), including:

- "...(b) except where to the rear of existing dwellings, retained hedgerows and trees shall, as far as practicable, not form boundaries to proposed dwelling houses and be incorporated into public spaces/green infrastructure;*
- (d) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats outside of private areas, including grassland creation where feasible to mitigate for the loss of suitable habitat for ground nesting birds and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;*
- (e) a site wide Phasing Programme including details of the proposed sequence of development across the site, strategic drainage and SuDS infrastructure, the extent and location of individual development phases or sub-phases and the associated access arrangements, programme and methodology for infilling of the former railway cutting, and timescales for implementation thereof;*
- (f) a Framework Travel Plan, including Travel Plan targets (relating to each phase or sub-phase where relevant) comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car...;*
- (h) detailed design for the provision of bin stores within private land at the highway end of private shared accesses to prevent refuse bins and collection vehicles standing on the residential street for longer than necessary causing an obstruction or inconvenience for other road users...;*
- (j) details and specifications of improvements (to an adoptable standard of at least 2 metres width) of the existing footpaths within the site; and*
- (k) details of subterranean tree and hedgerow root protection/facilitation measures..."*

Policy H4 also requires:

*"...iii) High quality pedestrian and cycle links shall be provided within the site and connecting to existing and proposed network..."*

This reserved matters submission relates to phase 3 of the wider development, proposing 143 dwellings. It encompasses the western most parcel of the site which largely shares its boundary with Granville School. A large central open space, encompassing the LEAP, along with a landscaped buffer along the western boundary and a smaller informal space to the eastern tip of the site make up the remaining open space provision for the wider development.

At the outline stage an opportunity was identified whereby the development could facilitate an improved parking and access solution for the adjacent Granville Academy, through the provision of a collection/drop off area. It was, however, not possible to secure this facility by way of legal agreement or planning condition as the necessary legal tests were not met. Whilst this facility was illustrated on the conditioned masterplan, in acknowledging the above, flexibility in terms of compliance with this document was built-in with future reserved matters being required to be 'broadly in accordance' with this document.

The facility does not form part of the current reserved matters submission. Discussions have taken place between the developer and the school in an attempt to secure this. However, despite considerable efforts, within a letter to the developer the school has confirmed that they do not wish to pursue the offer on grounds of site security and safeguarding mechanisms. As such, it is not considered reasonable to pursue the matter as this would require obsolete infrastructure to be provided by the developer. When considered as a whole, the drop off/collection facility comprises a very minor element of the overall development and thus in this context the development would still be considered

as 'broadly in accordance' with the masterplan.

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs, and noting that the principle of development established such that matters relating to the impact on local services and facilities, ground conditions, ecology and flood risk have all been previously considered acceptable (subject to conditions and/or obligations); the main issues central to the determination of this application are:

- Layout and landscaping; and
- Scale and appearance of the dwellings.

## **Planning assessment**

### Layout and landscaping

The proposed layout ensures that key principles established under the outline consent are presented in detail within this submission.

During the course of this application, various amendments have been sought; throughout the development the extent of frontage parking has been reduced or its appearance enhanced through the provision of a more robust landscaping solution, providing a 'soft' edge. Dwellings have been realigned and set further back in their plots (where appropriate) to ensure they follow a consistent building line. Specific clusters of dwellings have been re-planned to reduce amenity impacts on adjacent dwellings, to enhance rear amenity space, to improve the usability of parking provision and to ensure views are terminated by a focal point. Bin storage and collection facilities has been identified within convenient locations and additional architectural detail has been provided to key elevations to add interest. More minor amendments have also been secured including the 'handing' of gabled plots to ensure a more rhythmical pattern of development and the addition of chimneys on key plots to enhance the roofscape. Boundary treatments have also been revised to ensure consistency between the different phases of the development.

The layout would achieve both well surveilled and strong frontages to routes and would ensure interest at key views/focal points. Corner properties would have dual aspects, whilst the orientation and separation between properties (both existing and proposed) would ensure occupiers would benefit from suitable levels of privacy and would not suffer any harmful overshadowing or overbearing impacts. Public routes and open spaces would be adequately overlooked through appropriately oriented dwellings, and connectivity between the housing parcels, the open spaces and the wider area would be secured through a comprehensive network of paths, routed where possible, along desire lines. Turning specifically to the layout of open spaces, these would provide for a range of uses. The LEAP has been conveniently positioned to benefit from natural surveillance, but also to ensure that there would be adequate areas remaining for more space intensive activities such as informal games of football or cricket. Other areas have been planted with clusters of trees which may better lend themselves to quieter pursuits such as reading, yoga or family picnics. The chosen landscaping, especially within the vicinity of the LEAP would also facilitate natural shading along with biodiversity enhancements.

Comments have been received requesting that hedgehog access points be provided within the boundary treatments. This request does not feature within the ecological report recommendations and has not been requested by Derbyshire Wildlife Trust. As such there are no reasonable grounds on which to impose this as a condition. As such the developer will be made aware of the request via an informative.

The principal route would be delineated by metal railings, with hedgerow set behind, and dwellings would be set back an equal distance from the highway edge - thus aiding legibility throughout. On corner plots, rear gardens would be enclosed by walls, aligned with the corresponding dwelling to ensure adequate space for landscaping. The perimeter of the development and the individual parcels of dwellings would also be framed by a soft landscaped border, supplemented by a timber knee rail, which would delineate public/private space and embed the areas character, strengthening its

relationship with the National Forest.

Parking provision would be to the side of dwellings along the primary route, preventing this from becoming a dominant feature of the streetscene, and whilst there would be occurrences of frontage parking on secondary routes; adverse impacts associated with such would be mitigated by soft landscaping, including additional tree planting. Parking provision throughout would be compatible with the guidance as set out in the Design SPD in terms of its quantum and dimension. In regards to the proposed road layout and visibility splays, the County Highway Authority have raised no objection subject to the imposition of conditions. Each of these have been considered in detail to ensure they meet the necessary legal tests. One condition raises concern, however. This seeks to ensure that "the vehicular access shall be formed to the new estate street in accordance with the application drawings". There is no access proposed by the development and thus it is considered that this condition must have been suggested in error. The approved plans condition below requires adherence to the layout plans in any case, so the imposition of a further condition would not be necessary.

Affordable housing provision is proposed within two areas of the site. There has been discussion in respect of one cluster, which would marginally exceed the suggested number of 10 units, by 2. The layout in this area has been reorganised to integrate additional market dwellings, and whilst there would remain 12 units within the wider area, their distribution would now be more dispersed. The mix and size of affordable units has also been addressed to better reflect local demand, resulting in the provision of bungalows, 1 bed and 4 bed properties. Concerns have been raised in regards to the proposed rear boundary treatment for these dwellings (post and wire fencing). This solution is not considered acceptable and a condition is proposed, requiring alternative details.

Overall the proposed layout and landscaping would result in a legible, well-connected and inviting development that would be complimentary to and in keeping with the areas existing characteristics. In this regard the proposal would be consistent with the intentions of policies BNE1 and the Design Guide SPD, and the overarching principles of the NPPF.

#### Scale and appearance of the dwellings

A mix of 1, 2 and 2.5 storey dwellings are proposed throughout, with those of greater scale reserved for the spine road. In terms of their individual design, the dwellings would take on a predominantly traditional appearance owing to their specific architectural features and materials. During the course of the application, amendments have been requested to a number of house types, predominantly to secure balanced and detailed elevations. Aside from those discussed below, the requests were addressed by the developer. Concern was raised with the maisonette house type owing to the inconsistent siting of its openings within its principal elevation. The developer has commented that this house type has been accepted on other phases and that there would be no practical way of amending the elevation. The openings have been considered in relation to the internal layout and although there may have been a workable solution, this would not have been straightforward. On this basis and on balance, the original elevations, when considered in the wider context of the development would not result in a significant degree of harm and a refusal could not be warranted on such grounds. It was also raised that the first floor window of the Blacksmith house type should be aligned with the porch. In response, the developer has provided a street scene illustrating how this house type would appear in context; on this account of this, the original elevational detail is considered acceptable.

Details of materials have also been submitted for consideration. Originally a combination of six brick variations were proposed along with two types of tile, with two colour finishes. Of the proposed materials, two brick types were not considered acceptable as they failed to reflect the local vernacular. The remainder of the materials have been considered in the context of the approved materials on other phases and the wider area and on this basis are considered compatible. When considering the distribution of materials across the site, however, some amendments have been requested to ensure a consistent pattern is achieved.

Overall, the dwellings would appear well balanced and would have a symmetrical appearance, resulting in an aesthetically pleasing and legible form of development. Adequate design detail has been

secured including decorative brick detailing, including brick string courses, a variety of header and cill finishes, ground floor bay windows and porches (of varying style) finished in high quality materials. Fenestration would be set within a legible reveal and would be of narrower proportion at first floor, as common within traditional forms of architecture, and chimneys would be provided on key plots.

The development would therefore be consistent with policy BNE1 and the Design Guide SPD and the overarching principles of the NPPF.

### The Drop off/Pick up area

*As noted at the meeting on 22 September, the indicative masterplan approved at the outline stage suggested the potential for a drop off/pick up area to serve Granville Academy. Whilst this could not be required under the outline consent due to reliance on third party land for its effective delivery, the Committee raised concern that this phase of the site represented the final opportunity to secure such a facility which would provide wider community benefit. Officers provided a verbal update that evidence had been supplied by the applicant demonstrating that the Deferrers Trust, landowner of the school site, has confirmed they did not want a connection from the development site. Following the committee meeting, officers met with local Councillors, both District and County, the applicant and representatives from both the Academy and their parent Trust. At this meeting, the local concerns were made clear to the Trust and the Academy. It was stressed by Councillors that the new pedestrian entrance would not only benefit students coming from the Broomy Farm development, but also students from Hartshorne.*

*A further response has now been received from the Trust, representing a combined response of the Trust and the Academy. They state that, having reviewed the catchment area and spread of the current student population of Granville Academy across Swadlincote and the surrounding area, it is clear that the vast majority of students come from the south-west of the school and so would have to travel past the main school entrance to access the proposed new pedestrian entrance. It is therefore extremely unlikely that it would be used by these students. The only students to whom this does not apply are those coming from Hartshorne (or from Broomy Farm), and perhaps some from the eastern edge of Midway. The Trust advises, however, that only five students from Hartshorne joined the Academy in September 2020. The published admission number of Hartshorne Primary School is only 100 students, meaning there are only around 10 students in each year group there. It seems likely then that five students is indicative of a normal year and so only 25 of the total 780 students currently in the Academy come from Hartshorne. The rest are expected to come from housing developments which fall into the main catchment area described above.*

*The proposed pedestrian access would need to be behind the newly built Sports and Science building. This is not acceptable to the school or the Trust for two reasons:*

- 1. installing the gate behind a three-storey teaching block makes visibility impossible. Having an entrance hidden away behind the building is an open invitation for anti-social behaviour; and*
- 2. the back of the new Sports and Science building has been designated as 'out of bounds' and the small compound is purely to be used as a fire escape from the block.*

*The Trust and Academy have surveyed the site and an alternative location for the gate would involve accessing the site further along the school boundary. However, this would bring the students into the school grounds directly onto the newly laid staff car park which causes significant safety and safeguarding issues which could not easily be mitigated.*

*During the meeting, all parties agreed on the importance of safeguarding. The Trust strongly believes a pedestrian crossing (as well as a lay-by for buses) outside of the main school gate, which would be used by all students of Granville Academy, would be a much better use funds than a new pedestrian access to the site which would only be used by a small proportion of students whilst creating additional unacceptable and unnecessary safeguarding risks.*

*Furthermore, it is apparent to them that one of the main concerns is around traffic congestion on the A511. This does not fit with the Trust's observations of traffic at either end of the school day - these*

being that traffic flow was not significantly affected by school traffic. In order to understand how students at Granville Academy travel to school, all students were surveyed on 5 November which found 77% walked to school whilst a further 9% travelled by bus or cycle. Car is therefore not the dominant method of, nor a significant contributor to, travel to the site. Furthermore, only 15% of students stated they might potentially use a new access at the rear.

The Academy Leadership Team have very high aspirations for the students at the academy - standards are set high and expectations are set before students walk through the school gates. The Academy Leadership Team staff the main entrance every day as students are entering and leaving the site, and this has proved invaluable in ensuring standards are maintained and for addressing some of the potential anti-social behaviour which can occur at those times of the day. Adding a second gate to the site would stretch the Academy staff too thinly and this robust monitoring of students would not be able to be maintained.

Thus, the original response by the Trust citing school security and safeguarding as their key concerns have not changed. The safeguarding and management concerns are balanced against the small proportion of students who would use this facility. They are, however, agreeable to the installation of infrastructure to facilitate the pedestrian entrance and undertake to review its use, should circumstances change. The position of the gate would require more consideration by the developers and agreement with the school because the current proposal is not acceptable, regardless of the numbers of students who might use it. It is also noted that the full cost of installing the required infrastructure would need to be met by the developer (or the Council) since there is no funding available for the school to carry out the works themselves. This must include a secure, mag-locked gate linked to the current security systems of the school together with a new CCTV camera trained on the gate. It must also include a pathway from the gate to the relevant entrance to school buildings (across the school site). Finally, the Trust and Academy strongly advocate and work with the Council to develop a pedestrian crossing at the main entrance to the school, together with a lay-by for school buses.

Whilst understandably the response will be disappointing to Councillors, the position of the Trust and Academy is fully understood. Ultimately, it is a balance between safeguarding and the likely usage of any facility - an element of which also bringing about additional cost not presently catered for, and thus the likely limited benefits which would arise in terms of congestion and highway safety. The research undertaken clearly demonstrates that the majority of pupils do not bring about vehicular movements, as would be expected for a secondary school. At the same time, any requirement imposed on the developer must be reasonable whilst any long term effects must also be manageable for all parties affected.

Thus, amendments have been received to provide the footpath link up to the most favourable position on the school boundary, as determined through discussions between the applicant and the on-site team at the Academy. A condition is proposed below to require the provision of the footpath before the occupation of a certain percentage of dwellings arising from this phase. It has also been suggested that the possibility of securing a financial contribution from the new application for additional dwellings at Broomy Farm (ref. DMPA/2020/1004) be given consideration - this to provide for the on-site works at the Academy in the future. Such a sum could be held for a sufficient period so that the school may review the situation as to pupil origin/destination at regular intervals, as well as any future growth around Swadlincote, and repaid should it still not be considered appropriate to provide the access. However, as is the case with any off-site works secured pursuant to a planning application, it would be necessary to demonstrate a link between the increased pressure created by a particular development and the proposed mitigation in order to be CIL compliant. This is a matter for consideration under the new application, however, and not this reserved matters submission.

It should also be noted that a pedestrian crossing would be provided on the A511 as part of the access arrangements to Broomy Farm (which will reconfigure the Lincoln Way junction). This is some 180 metres north of the school access and is not an unreasonable distance to walk. It also connects directly with a cycle route running out from the Swadlincote Woodlands development to the west. There is also an existing lay-by outside the school access for busses.

## Conclusion

On balance, this reserved matters submission would result in a well detailed and laid out development, enhanced through the use of appropriate landscaping rendering it both complementary to, and consistent with existing development within the vicinity. The proposal would be broadly consistent with the details of the approved masterplan, with the relevant policies of the Local Plan, with the NPPF and the Council's SPDs. *Whilst it is regrettable that the drop off/pick up area would not be secured, it is now evident that the public benefit of such infrastructure would be limited whilst providing security and safeguarding concerns to the Academy. As mentioned at the meeting in September, to insist on its provision would lead to obsolete infrastructure being delivered, and this is not a reasonable requirement.* The resultant scheme would therefore comprise of sustainable development and would assist in the delivery of the Council's identified housing need, both in terms of market and affordable homes.

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

## **Recommendation**

**Approve** permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the drawings and plans listed in the Drawing Schedule dated ~~09/09~~ 03/12/2020 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.

2. Notwithstanding the approved drawings, all boundary walls erected pursuant to this approval shall include the use of a bullnose brick of a matching colour in the header course where changes in ground levels need to be accommodated.

Reason: In the interests of securing a high quality finish reflective of local vernacular.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of any walls, fences or other means of enclosure which are exposed to a highway, footpath, shared courtyard or driveway or public open space/forest planting.

Reason: In the interests of overall design, in order to maintain the character of green and public spaces as secured under the plans hereby approved.

4. There shall be no gates or other barriers within 5m of the nearside highway boundary (proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5m from the highway boundary (proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public highway.

6. 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.

7. Prior to any works commencing on site, excluding site clearance, details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

8. Prior to the first occupation of any new dwelling hereby permitted, the carriageways and footways between the dwelling and the existing highway shall be constructed up to and including base course surfacing to ensure that each dwelling has a properly consolidated and surfaced means of access. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

9. No part of the development shall be occupied until each junction has been provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the junction, for a distance of 25m in each direction measured along the nearside carriageway edge. The land in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

10. No dwelling shall be occupied until space has been provided within the site for the parking of residence and visitors vehicle, laid out in accordance with the application drawings and maintained throughout the life of the development free of any impediment to its designated use.

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

11. The gradient of the new estate streets shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

Reason: In the interest of highway safety.

12. The proposed access driveways to the new estate streets shall be no steeper than 1 in 14 for the first 10m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

13. Notwithstanding the plans hereby approved, prior to the construction of plots 45-50 (inclusive) plots 79 – 81 (inclusive) and plots 89 – 94 (inclusive) details of the rear boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

14. The development shall be constructed in accordance with the materials and details specified on the approved materials layout plan which shall thereafter be retained.

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

15. *The footpath leading to the boundary with Granville Academy shall be installed prior to the occupation of 85% of the dwellings approved within this phase of the wider development, made accessible for use in accordance with the timescales set out in the associated section 106*

*agreement and subsequently maintained in accordance with the approved landscape management plan.*

Reason: *In order to facilitate future pedestrian access to the school site.*

**Informatives:**

- a. The developer may wish to provide hedgehog access within boundary walls and fences having dimensions of 150mm x 150mm.

## **Planning and other Appeals**

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Outcome</b>	<b>Decision level</b>
<a href="#"><u>DMPA/2019/1209</u></a>	Breach Lane, Melbourne	Melbourne	Dismissed	Delegated
<a href="#"><u>DMPA/2020/0420</u></a>	Burbage, Etwall Lane, Burnaston	Etwall	Dismissed	Delegated
<a href="#"><u>DMPN/2020/0535</u></a>	Rectory Farm, Challaston Lane, Aston on Trent	Aston	Dismissed	Delegated

## Appeal Decision

Site Visit made on 16 November 2020

by **J M Tweddle BSc(Hons) MSc(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

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**Appeal Ref: APP/F1040/W/20/3257255**

**Land off Breach Lane, Melbourne, Derbyshire DE73 8DF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Amar Shezad against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2019/1209, dated 17 January 2020, was refused by notice dated 27 July 2020.
  - The development proposed is the erection of a dwelling and garage.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. With the appellant's agreement, the Council changed the description of development from what was originally stated on the application form<sup>1</sup>. The revised description is set out above, but I have omitted the site location as this is superfluous.
3. The proposal is in outline with approval sought for the means of access. Matters such as appearance, landscaping, layout and scale are reserved for future consideration in the event that planning permission is granted. Proposed plans and drawings have been provided and show a single dwelling within the appeal site. Other than the point of access, I have treated these details as indicative and only in so far as considering whether it would be possible, in principle, to develop the site as proposed.

### Main Issue

4. The main issue is whether the proposal is consistent with policies relating to the location and supply of housing in rural areas, with particular regard to the effect of the proposal on the character and appearance of the surrounding area and accessibility to local services and facilities.

### Reasons

5. The appeal relates to a largely triangular parcel of undeveloped land at the junction of Breach Lane with the B587 public highway. The appeal site comprises overgrown vegetation and low-level scrub bound by hedgerows and some trees. Its undeveloped and open character, adjacent to a cluster of dwellings, adds positively to the character and appearance of the surrounding area, reinforcing its intrinsic rural surroundings.

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<sup>1</sup> Residential development of a single dwelling

6. The Council's sustainable growth strategy is set out in Policy S1 of the South Derbyshire Local Plan Part 1 (LP1). It seeks to ensure that economic, social and environmental objectives are fully addressed including, amongst other things, that the District's landscape and rural character are protected, conserved and enhanced. This approach is consistent with the sustainability aims of the National Planning Policy Framework (the Framework) which states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
7. It is common ground between the parties that the appeal site is outside of any defined settlement boundary and is therefore within the 'rural area', where Policy H1 of the LP1 together with Policies SDT1 and BNE5 iv) and v) of the South Derbyshire Local Plan Part 2 (LP2) restrict development to 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 and that does not unduly impact on landscape character and quality.
8. The appeal site is adjacent to an existing property, known as Windyridge, which is part of a small cluster of dwellings along Breach Lane. On the other side is a deep highway verge and then the B587 public highway which forms a busy route into nearby Melbourne. Beyond this is a grouping of buildings which make up the former Sir Frances Burdett Inn. To the north and south (beyond Breach Lane) is open countryside. The Council estimate that the undeveloped frontage between Windyridge and over the highway to the former Sir Frances Burdett Inn is approximately 100 metres. This is a significant degree of separation that is accentuated by the public highway. Therefore, in my view, this is not a small gap.
9. Moreover, in this case, the width and horizontal alignment of the adjacent highway in relation to the appeal site results in a substantial barrier between the built form along Breach Lane and that of the smaller cluster of buildings at the former Sir Francis Burdett Inn. Therefore, rather than a continuous built up frontage with small gaps, they are read as two separate clusters of buildings in the rural area, distinct from each other and surrounded by open countryside. Consequently, while only one dwelling is proposed, I cannot agree that the proposal would amount to the infilling of a small gap that would be in keeping with the character of the locality.
10. Turning to character and appearance, the site is not located within a designated landscape. However, its undeveloped and open character forms part of a visual break between clusters of built form in the countryside, typical of the sporadic pattern of development in the surrounding area. The resultant gap in built form, observed principally when travelling along the B587 highway, makes an important contribution to the character of the surrounding countryside.
11. The proposal would result in an extension of built form and associated domestic paraphernalia that would inevitably change the character of the site, diminishing its undeveloped and open characteristics. As such, the proposal would lead to a prominent intrusion of development into the countryside that would result in significant harm to the rural character and quality of the surrounding area.

12. With regard to accessibility, Policy S6 of the LP1 seeks to minimise the need to travel, encouraging a modal shift away from the private car to more sustainable modes of transport such as walking, cycling and public transport by seeking patterns of development that enable travelling distances to be minimised and that make best use of existing transport infrastructure and services. The site's position in relation to adjacent properties and the proximity of the nearby settlement of Melbourne means that it would not be isolated in the context of the Braintree Judgement<sup>2</sup>. However, the nearest services and facilities are located in the centre of Melbourne, about 1.3km from the appeal site. This is beyond what could reasonably be considered as a short or convenient walk along the B587 public highway.
13. Whilst there is a pedestrian footpath along the B587 from the junction with Branch Lane into Melbourne, I could see during my site visit that this is a busy highway. There were frequent traffic movements in both directions with vehicles traveling at speed. Although the pedestrian route benefits from streetlighting, it is particularly narrow in parts and, there are significant bends in the road where visibility between pedestrians, cyclists and approaching traffic would be reduced. To my mind, those highway conditions would not provide an inviting or convenient route for the future occupiers of the proposal to regularly travel on foot or by cycle to meet their day-to-day needs, particularly during periods of inclement weather.
14. There are nearby bus stops on the B587 with the appellant's submission suggesting that an hourly bus service is provided to Swadlinecote and Woodville via Melbourne. However, I have not been provided with any details of this service and therefore cannot be satisfied that it would provide a suitable or convenient alternative to the private car. Consequently, there would inevitably be some dependence on the use of a private car to access a full range of services and facilities in order to meet day-to-day needs and employment opportunities.
15. The proposal, of itself, is unlikely to generate a large number of traffic movements. Furthermore, a greater dependency on car use is perhaps inevitable in rural locations where it is accepted that opportunities to maximise sustainable transport solutions will vary from that of urban areas. However, the cumulative effect of allowing developments in locations such as the appeal proposal would result in an unsustainable pattern of development that would be likely to increase reliance on the private car contrary to the aims of LP1 Policy S6 and the Council's overarching spatial strategy.
16. In reaching the above findings, I have had regard to the appeal decisions drawn to my attention relating to planning permissions granted for a single dwelling at 115 Hill Top Road, Acton Bridge<sup>3</sup> and a dwelling between Long Barn and 69 Hill Top Road, Acton Bridge<sup>4</sup>. I have also had regard to the content of the Committee Report in relation to an outline application<sup>5</sup> for residential development at Foston, Derby. However, as these other cases reflect different locational circumstances to the proposal before me, I have necessarily

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<sup>2</sup> *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

<sup>3</sup> Appeal Ref: APP/A0665/W/14/3000557

<sup>4</sup> Appeal Ref: APP/A0665/A/13/2195160

<sup>5</sup> LPA Ref: 9/2019/0396/FO

determined this appeal on its own merits, having regard to its unique spatial characteristics.

17. Bringing all of these points together, I conclude that the proposed development would not be consistent with the objectives of policies relating to the location and supply of housing in rural areas, with particular regard to the effect of the proposal on the character and appearance of the surrounding area and accessibility to local services and facilities. The proposed development is, therefore, contrary to Policies S1, S2, S6, H1, BNE1 and BNE4 of the LP1, Policies SDT1 and BNE5 of the LP2 and the associated provisions of the Framework which taken together seek to achieve sustainable patterns of development that do not unduly impact on the rural character of the District's landscape and seek to promote sustainable modes of transport, amongst other things.

### **Other Matters**

18. I acknowledge the appellants assertions that a safe means of access can be provided and that there would be no adverse impacts in relation to highway safety, ecology, the historic environment, flood risk or residential amenity. However, these are neutral factors in my determination and therefore they do not amount to benefits in favour of the scheme.
19. The development would make use of a vacant parcel of land and would make a small contribution towards the supply of housing, accruing economic benefits through the construction of the dwelling and social benefits from the provision of a family home. The appellant suggests that these benefits carry additional weight in the context of the current Covid-19 pandemic. Nonetheless, I am mindful that the pandemic is a temporary situation but the harm I have identified would be enduring.

### **Conclusion**

20. I have found the proposal to be in conflict with development plan policies in relation to the location and supply of housing in rural areas with associated harm to the character and appearance of the surrounding area, and inadequate accessibility to local services and facilities resulting in some reliance on private car use.
21. The conflict with the development plan, the Framework and the associated harm are significant and overriding factors. The other matters advanced in favour of the appeal, including the limited contribution to housing supply and the associated benefits, are not of sufficient weight to justify a determination other than in accordance with the development plan, with which the proposal would clearly conflict.
22. Accordingly, for the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Jeff Tweddle*

INSPECTOR



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## Appeal Decision

Site visit made on 1 December 2020

by **K Ford MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 December 2020

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**Appeal Ref: APP/F1040/D/20/3261168**

**Burbage, Etwall Lane, Burnaston, Derby DE65 6LF**

- 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 Michael Taplin against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2020/0420, dated 27 April 2020, was refused by notice dated 24 July 2020.
  - The development proposed is the erection of a detached garage.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect on the character and appearance of the area.

### Reasons

3. The appeal site sits in a short row of variously styled detached dwellings set back from the grass verge and road behind driveways and gardens creating a fairly consistent linear building line.
4. The proposed garage would be sited to the front of the dwelling breaking the building line. It would be of a size and scale that would create a discordant addition to the street scene, especially given its location in close proximity to the highway. This is despite the presence of the grass verge. The position of the garage behind the existing boundary wall would do little to mitigate the harm given the height of the wall in relation to the garage. Nor would design features such as the roof pitch and the absence of any windows on the elevation facing the road.
5. The appellant has referenced other developments in the village to support their case. The examples in Main Street are located away from the site where I consider the character to be different. Whilst there are 2 outbuildings adjacent to each other in front of the building line in Etwall Lane, they are on the opposite side of the road. I do not know the circumstances in which these buildings were granted planning permission. However, their presence detracts from the otherwise open nature of the area and as such do not weigh in favour of the scheme. In any event, each case is determined on its own merits and my assessment is based on the evidence before me.



6. The scheme would harm the character and appearance of the area. The fact that the site is not located in a Conservation Area does not alter my view on this matter. It would consequently conflict with the part of Policy SD1 of the South Derbyshire Local Plan Part 1 (Local Plan) which supports development that would not lead to adverse impacts on the environment. It would also conflict with Policy H27 and Policy BNE1 of the Local Plan which among other things supports the erection of outbuildings where they are not detrimental to the character and appearance of the area and requires new development to respond to its context, be appropriate and contribute to achieving continuity within the street scene. There would also be conflict with the relevant parts of the South Derbyshire Design Guide relating to local character.

#### **Other Matters**

7. The appellant has identified that there would be no harm to the living conditions of neighbouring occupants. However, this would not outweigh the harm to the character and appearance of the area.

#### **Conclusion**

8. For the reasons identified, I conclude that the appeal should be dismissed.

*K Ford*

INSPECTOR



## Appeal Decision

Site Visit made on 16 December 2020

**By M Russell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

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**Appeal Ref: APP/F1040/W/20/3259172**

**Rectory Farm, Chellaston Lane, Aston on Trent, Derby DE72 2AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr I Armett against the decision of South Derbyshire District Council.
  - The application Ref DMPN/2020/0535, dated 15 May 2020, was refused by notice dated 14 July 2020.
  - The development proposed is prior approval for change of use of agricultural building to two dwellings (Use Class C3) and associated operational development.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The application form did not include a description of the proposal, referring only to a supporting statement. I have therefore used the description given on the Council's decision notice and the appeal form.

### Background and Main Issue

3. Schedule 2, Part 3, Class Q (a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 of the Use Classes Order (UCO); and building operations reasonably necessary to convert the building to a use falling within Class C3 of the UCO.
4. Q.1(i) of the GPDO states development is not permitted if the development under Class Q (b) would consist of building operations other than (i) the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
5. The main issue is whether the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an

agricultural building to two dwellinghouses (Use Class C3), having particular regard to the requirements under Class Q.1 (i).

### Reasons

6. The agricultural building to which this appeal relates is a pitched roofed portal framed building with a mono-pitched lean-to projection. It has a steel frame with concrete block walls to the lower parts of the side elevations. The upper sections of the walls and the roof include corrugated metal cladding and asbestos/fibre cement sheeting. The building has a concrete floor. The existing building is substantially enclosed and only open to the front elevation.
7. Paragraph 105 of the Planning Practice Guidance (PPG) sets out the building works permitted under Class Q to facilitate a change of use from an agricultural building to a residential use. It confirms the right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building. This includes amongst other things the installation of windows, doors, roofs and exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse.
8. The partial demolition of the southern section of the building, the re-cladding of the roof in aluminium, the re-cladding of walls with timber boarding, the provision of aluminium window frames and doors and the installation of a damp membrane over the existing floor with connection to services would not on their own constitute building operations that fall outside the scope of Class Q.1 (i). However, the 'Building Condition Survey' provided confirms that only a visual inspection was undertaken and that *"no investigation has been made of the subsoils or footings and therefore no opinion can be expressed regarding the ability of the foundations to continue to support the buildings"*.
9. I do not consider the survey undertaken is robust enough. Indeed, I would have expected it to include a more detailed investigation of the footings to establish the long-term structural integrity of the building. Furthermore, there are no structural calculations to demonstrate that the footings and existing steel frame would be capable of accommodating the loading of the proposed walls, glazing and roof coverings. Without these details, I cannot be certain that building operations which would go beyond those considered reasonably necessary for the building to function as a dwellinghouse would not be required.
10. The appellant contends that whilst the excavation and installation of new foundations is not specified under the building operations permitted under Class Q.1 (i), such works would not constitute development under the definitions in s55 of the Town and Country Planning Act 1990 (the Act). However, for the reasons detailed above, the extent of any interventions that might be necessary to ensure that the building is structural capable of supporting the residential use is unknown. Without detailed evidence, I am not persuaded that 'structural alterations' which would constitute a building operation under the definition of 'development' under s55 of the Act, would not be required.

11. I conclude that I cannot be satisfied that the building operations proposed would not go beyond those listed in Q.1(i) of the GPDO. I am therefore not satisfied that the proposal is permitted development and must dismiss the appeal.

#### **Other Matters**

12. As I have found that there is insufficient information provided to demonstrate that the proposal would be development permitted by the GPDO, the detailed prior approval matters under Q.2 (1) of the GPDO do not fall to be considered as part of the determination of this appeal.

#### **Conclusion**

13. For the reasons set out, the appeal is dismissed.

*M Russell*

INSPECTOR