

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

## **Section 1: Planning Applications**

## **Section 2: Planning 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/2022/0037</a>	<a href="#">1.1</a>	Hilton	Hilton	6
<a href="#">DMPA/2022/0412</a>	<a href="#">1.2</a>	Walton-on-Trent	Seales	16
<a href="#">DMPA/2022/0860</a>	<a href="#">1.3</a>	Swadlincote	Swadlincote	23
<a href="#">DMPA/2022/1120</a>	<a href="#">1.4</a>	Melbourne	Melbourne	30
<a href="#">DMOT/2022/0899</a>	<a href="#">1.5</a>	Melbourne	Melbourne	35
<a href="#">DMOT/20221073</a>	<a href="#">1.6</a>	Netherseal	Seales	39

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/2022/0037](#)

**Valid date:** 11/02/2022

**Applicant:** Slade

**Agent:** Making Plans Architecture

**Proposal:** Conversion & extension of existing garage into new 2 bedroom dwelling and erection of new flat roof garage at 57 Egginton Road, Hilton, Derby, DE65 5FG

**Ward:** Hilton

### **Reason for committee determination**

The application is returned to committee following a deferral at the meeting on 23 August 2022.

### **Update report**

When this item was debated in August, Members raised concerns in relation to the proposed amenity space associated with the proposed dwelling. The proposed dwelling is a 2 bedroom dwelling.

NP Policy H5 seeks sufficient private amenity space for each dwelling as follows: 70sqm for a 2 bedroom dwelling.

Previously, the unit was served by a front and rear garden which totalled 69.9sqm not including the proposed drive.

The applicant has amended the proposal and extended the rear garden. The amenity area now totals 84.895sqm. This exceeds the NP policy on this matter.

For the reasons outlined in the original report it is considered that the proposals are acceptable and as such the Committee is asked to resolve that planning permission be granted in accordance with the recommendation at the end of the report to Committee on 26<sup>th</sup> July, attached as an appendix to this report, save for an update to condition 2 to include the amended plans and should read:

2 The development hereby permitted shall be carried out in accordance with plans/drawings:

- J3409-01B Site Location Plan.
- J3409-02D Existing and Proposed Block Plans.
- J3409-03A Existing Floor Plans, Elevations and Sections.
- J3409-04E Proposed Floor Plans, Elevations and Sections.

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

**Item No.** 1.9

**Ref. No.** DMPA/2022/0037

**Valid date:** 11/02/2022

**Applicant:** Slade **Agent:** Making Plans Architecture

**Proposal:** Conversion & extension of existing garage into new 2 bedroom dwelling and erection of new flat roof garage at 57 Egginton Road, Hilton, Derby, DE65 5FG

**Ward:** Hilton

### **Reason for committee determination**

The item is presented to the Committee for the following reasons: partial conflict with the adopted Neighbourhood Plan.

### **Site Description**

The site comprises of the existing double garage building and surrounds associated with residential dwelling 57 Egginton Road, DE65 5FG, which is located on a large plot adjacent to the north west of the application site.

The site is surrounded to the north and west by land and ancillary buildings associated with dwellinghouse of 57 Egginton Road; to the east by Willowfields Road; and to the south by public right of way SD25/17/1 which runs from Willowfields to Egginton Road. Beyond the PRow are dwellinghouses (23 Willowfields immediately south).

Surrounding development is suburban estate style residential housing of 2 storeys, predominantly in a tented roof style with dormers front and rear. The dormers are predominantly fascia plastic, but examples of brick can also be found. The exception to this is 57 Egginton Road which appears to be an older and larger on plan arts and crafts style dwellinghouse.

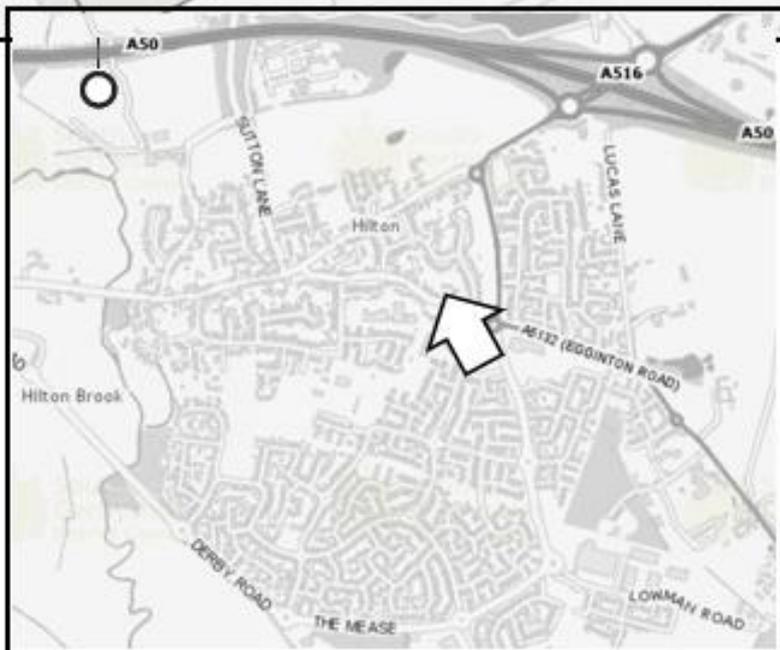
The site is located within Hilton. Hilton is a 'Key Service Village' in the Local Plan Settlement Hierarchy. The application is within Hilton Parish.

Opposite the site is a designated 'area of open space' reference 197 Willowfields, which is also a designated 'peripheral' Nature Site in the Local Plan. At neighbourhood level, this space is a 'local green space'.

There are no heritage assets on site or within the vicinity of the site. The site is within Flood Risk Zone 1 but is noted as being within an area subject to Low Risk of Surface Water flooding. There are no established trees on site and no tree preservation orders. The boundary between the site and Willowfields Road is in part made up of semi mature leylandii/privets.

Given the sites orientation, the site would be accessed from Willowfields Road. For clarity 57 Egginton Road is accessed via a long driveway which runs along the same route as PRow SD25/17/1.

**DMPA/2022/0037 – 57 Egginton Road, Hilton, Derby, DE65 5FG**



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South Derbyshire District Council. LA 100019461.2020

## **The proposal**

The proposal is to extend and alter the existing garage to comprise a retained garage for 57 Eggington Road, and also a two storey 2bed unit accessed from Willowfields Road.

The style proposed is that of the adjacent properties along Willowfields Road. The dwellinghouse would be supported by a front and rear garden and off-street parking.

## **Applicant's supporting information**

Application Form

Location Plan

Existing Plans and Elevations

Proposed Plans and Elevations

Block Plan (amended 18th March)

Confirmation Cattery not implemented re/ Parking/C6

## **Relevant planning history**

9/1999/1015 - The erection of a 1.8 m. high boundary fence and the incorporation into the domestic garden of land fronting Willow Fields and adjoining the detached dwelling known as Well Cottage - Approved May 1999

9/2000/0472 - The erection of a part two storey extension - Approved July 2000

9/2004/0325 - The erection of an extension and alterations - Approved May 2004

9/2013/0647 - The erection of an extension and detached double garage with adjoining hobby room and formation of storage/games rooms within roof space of garage - Approved October 2013

9/2014/0026 - Resubmission of previously approved application 9/2013/0647(the erection of an extension and detached double garage with adjoining hobby room and formation of storage/games rooms within roof space of garage) to include the erection of a building for use as a cattery, repositioning of approved garage and use of hobby rooms within garage as a kitchen area in connection with cattery, the erection of 1.8m fence and the creation of off street parking from willowfields - Approved October 2014

Note - Condition 6 controlled the delivery of a car parking space in support of the Cattery on the same land as the current parking space associated with the new unit proposed, however, this use has never been confirmed as never been implemented.

9/2018/0537 - The erection of a replacement sun lounge extension - Approved July 2018

## **Responses to consultations and publicity**

The application was published initially in February 2022 and then again given amendments in May 2022. During both periods letters of notification were sent to neighbours and the application was published via a site notice.

Environmental Health - No comments.

County Highways - No Objection subject to conditions and informatives.

Hilton Parish Council - expects that all the requirements of the NP policies are applied to this application.

No responses were received from members of the public in response to the consultations undertaken.

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

The relevant Development Plan policies are:

2016 South Derbyshire Local Plan Part 1 (LP1): SD1: Amenity and Environmental Quality; and BNE1 Design Excellence.

2017 South Derbyshire Local Plan Part 2 (LP2): H27 Residential Extension and other Householder Development

Hilton, Marston on Dove and Hoon: Neighbourhood Development Plan (Hilton NP) 2020-2035: N1 Noise Mitigation; A1 Air Quality; H1 Housing Delivery; H2 Housing Mix; H3 Requirements of Housing: Residential Car Parking; H4 Requirements of Housing: Homes designed for energy efficiency; H5 Gardens; and H6 Housing Design

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD) November 2017

The relevant national policy and guidance is:

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

### **Planning considerations**

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

Principle of development;  
Design and Neighbour impacts;  
Parking and Access; and  
Other Matters

### **Planning assessment**

Principle of development

The site is brownfield and located within the settlement boundary of Hilton. Hilton is noted as a Key Service Village in Policy H1, and the policy states development of all sizes within the settlement boundary will be considered appropriate. The Local Plan in Table 3 expects 400 dwellings will be delivered by windfall sites such as this. The proposal does not trigger the requirement for affordable housing as per policy H21, nor a specific mix as per Neighbourhood Plan (NP) policy H2. It is considered that the Hilton NP would also support residential development in principle at this location via policy H1.

Overall, the principle of residential development on site is acceptable, subject to further considerations set out below. The delivery of a housing unit is considered a benefit given the windfall housing demands on Hilton inline with LP H1 and NP H1; and, given that this is a 2bed unit on brownfield site in an area of predominantly 3bed units, it is considered a benefit in so

far as it assists in creating a mixed and balanced community within the settlement, broadly inline with objectives of NP H2.

### Design & Neighbour Impacts

Policy H20 seeks a suitable range and density of housing on sites, with proposals having to make an efficient use of land appropriate for the wider character. Policy BNE1 promotes design excellence in new development, in so far as ensuring visual attractiveness, reflecting local character and protecting neighbouring amenity. NP Policy H4 seeks developments optimise their sustainability.

NP Policy H5 seeks sufficient private amenity space for each dwelling as follows: 70sqm for a 2 bed room dwelling. In considering this aspect of the development it is material to note the site is opposite Willowfields Local Green Space (Site 3) as identified in the NP.

Adjacent development is suburban housing of two storeys, in a tented roof style with dormers front and rear.

The proposal would alter and extend the existing double storey hipped roof garage, with front and extended rear dormers to create a single 2bed unit and build an adjoining c.5m x 6m single storey garage for use by 57 Eggington Road.

The new unit would be visible from Willowfields Road. The proposed architectural design of a 2 storey tented roof with dormers follows that of adjacent units along Willowfields. The materials proposed are as existing on the front facade and use of tile hanging on dormers. The windows and uPVC will be grey which is not considered unacceptable. Again to the rear, there will be the reuse of the existing roof tiles and the dormer would be Eurocell composite cladding in moon dust grey. The walls will be White K render as existing. The materials are set out on plans which can be conditioned. The materials are considered to be that of the vernacular in the area and result in high quality design that reflect character. The proposed internal layout have been confirmed would meet Nationally Described Space Standards (NDSS).

The unit is served by a front and rear garden which total 69.9sqm not including the proposed drive. The side boundary treatments are as existing and the new boundary between the rear of the new unit and 57 Eggington Road will be 2m high block rendered wall in silver pearl render.

The new garage is proposed to be flat roof and rendered to match the proposed unit. Many of the proposed materials are reused and the proposal retains the majority of the existing structure already present. The unit is dual aspect enabling natural ventilation.

No objection has been raised to the proposals by consultees or adjacent neighbours.

Overall, the design is considered to be sympathetic to the existing vernacular using similar materials which retains the overall character of the area. Given the orientation of building and context of adjacent buildings and landscaping no unacceptable impacts to amenity of 57 Eggington Road and 23 Willowfields Road are considered to arise. Even when excluding the drive when rounded to the nearest square metre the private amenity space stipulated in the neighbourhood plan is met. It is also noted that the overall open space within the plot (including the drive) significantly exceeds the NP minimum. Given the fractional deficiency (when not rounded up) of the proposed garden against the NP policy this is accepted. The new garage is less visible than the proposed unit from the streetscene but nevertheless acceptable. The retention of the structure and reuse of materials, as well as being dual aspect is considered to optimise the sustainability of the proposal.

For the reasons above the design of the proposed development is considered acceptable, and inline with H20, BNE1, NP H4 and NP H5

### Parking and Access

NP Policy H3 states that new residential development must provide 2+ spaces for 2 bedroom unit as proposed. The loss of all parking for 57 Eggington Road would be resisted by policy. Wider NP policies related to traffic seek to reduce the degree of traffic and promote active travel. Willowfields Road has no street markings to regulate parking.

Derbyshire County Council highways were consulted on the application and raised no objection stating that on balance x1 parking space was sufficient here, and proposed conditions to ensure parking was retained, prior to occupation and maintained. These would be attached to any permission.

The retained parking for 57 Eggington Road is acceptable.

Considering NP Policy H3 further, the NP sets out a context of the transport issues in the NP area which give rise to the standards. It states (pg22):

‘There has long been an issue with parking in some areas of the recent developments. In the past, little regard was given to how many spaces should be made available and where parking provision should be made. This has resulted in parking being a real problem in those areas with the highest housing density which not only affects the routine service of bin collection, but also represents a safety hazard for the access of emergency vehicles. The ability to convert a garage into another living area may also contribute to the overall problem. A comprehensive parking survey has informed the following policy’.

In addition, the residents’ survey revealed a need for the housing to be environmentally friendly and a desire for ‘family sized gardens’. The resulting policy was overwhelmingly supported by the residents.

Further to this, at page 29 the NP sets out two ongoing issues in Hilton are traffic and speed of vehicles.

The proposed parking for the new unit would not meet the standards set out by the NP. However, it is considered that there is some conflict between the two relevant policies in the plan in so far as it seeks to reduce traffic in the area, whilst seeking to apply rigid minimum parking standards. It is considered that the parking issues which form the basis of the policy requirement are found in areas of newer development, of high density and overall this represents an operational issue for bin and emergency services.

The proposed development is within an area of established development. The NP page 10 shows that the area was delivered between 1955-95. From a site visit, it was considered there was not an obtrusive amount of on street parking on Willowfields Road, despite being uncontrolled (no double yellow lines), to undermine access or cause undue impacts. Lastly, DCC Highways have not raised an objection on access or safety grounds.

On balance, whilst there is conflict with the NP policy which weighs against the application, it is considered that the wider material considerations as set out above would result in the proposed development being acceptable in regard to parking provision proposed.

### Other Matters

Officers note that the site overlaps 9/2014/0026 which approved the use of an ancillary building as a cattery and intended for the land subject to this application to be access and parking for this operation. Such was controlled by condition 6 attached to permission reference 9/2014/0026. The operation of the cattery has been confirmed by the applicant as never commenced and from the site visit this appeared so. Notwithstanding, permission 9/2014/0026 would not be able to be operated given that condition 6 would not be able to be met so there is no risk of such occurring lawfully, if this permission is implemented.

### Conclusion

The proposal would deliver a 2bed residential unit, contributing towards the expected 400 windfall units identified, utilise an existing structure which therefore represents an efficient use of land, delivers sustainability benefits since it limits materials etc. and assists in balancing housing stock in terms of unit sizes in the area. The retention of suitable garage parking for 57 Eggington Road maintains the quality of this unit as part of the housing offer in the area. Given the weight afforded to both housing delivery and efficient use of brownfield land this is given significant weight in this instance.

The design of the unit and garage is considered to reflect the vernacular inline with policy. The proposal does not give rise to impacts on neighbouring amenity. The unit would meet space standards, give rise to good levels of internal amenity and is served by suitable private amenity space.

The proposed parking for the new unit would not meet development plan standards but is considered on balance acceptable by the County Highways Authority. Whilst the proposals are not wholly policy compliant in this regard, it is considered that the proposal will not give rise to the identified issues to which the NP is seeking to remedy and avert and on balance is considered to be acceptable.

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

### **Recommendation**

Approve subject to the following conditions:

1. The development 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 plans/drawings:
  - J3409-01A Site Location Plan.
  - J3409-02C Existing and Proposed Block Plans.
  - J3409-03A Existing Floor Plans, Elevations and Sections.
  - J3409-04C Proposed Floor Plans, Elevations and Sections.unless as otherwise required by condition attached to this permission or following

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

Reason: For the avoidance of doubt and to ensure a high-quality development.

3. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to the dwelling. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles in accordance with Policy INF2 of the Local Plan Part 1.

4. Before occupation of the development the access and parking areas shown on the approved plan(s) shall be completed and thereafter permanently retained for parking and manoeuvring purposes.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians in accordance with policy INF2 of the Local Plan Part 1

5. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: In the interests of highways safety and in accordance with policy INF2 of the Local Plan Part 1.

7. Prior to the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to occupation and thereafter maintained in a fully functional state.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety in accordance with policies INF2 and SD2 of the Local Plan Part 1.

#### Informatives:

##### A - Highways

- a) Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- b) Planning permission does not give you approval to work on the public [highway](#). To carry works associated with this

planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.

**Item No.** 1.2

**Ref. No.** [DMPA/2022/0412](#)

**Valid date:** 25/04/2022

**Applicant:** Mr and Mrs Lyell

**Agent:** BHB Architects

**Proposal:** **Listed building consent for reinstatement of former blocked-up window opening at ground floor level to the rear (east) elevation and to create bathroom/en-suite and WC facilities at first and second floors at Walton Hall, Main Street, Walton-on-Trent, Swadlincote DE12 8LZ**

**Ward:** Seales

### **Reason for committee determination**

*This report was deferred at the meeting on 23 August 2022 to allow Members to undertake a site visit. All parts of the report remain unaltered.*

Advice given by Historic England Statutory Consultee is inconsistent with the recommendation of the South Derbyshire Conservation Officer.

### **Site Description**

The site is a Grade II\* Listed Property known as Walton Hall within Walton on Trent Conservation Area. This is a small country house and attached stable ranges and garden wall. Early C18 with early C19 and C20 alterations. The Hall is an important surviving 18th Century building and a significant heritage asset.

### **The proposal**

The proposal is for the reinstatement of the former ground floor window to the south east elevation and internal works to create new bathroom/en suite facilities within the property.

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

The applicant has submitted Plans and a Planning, Design and Access Statement to which sets out the evolution of the site, assesses impacts on heritage assets, and considers the proposals against the relevant policy framework.

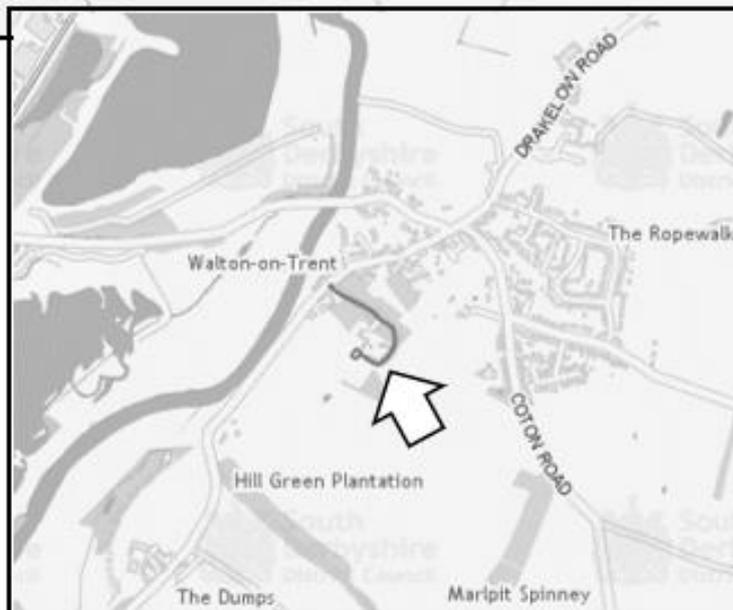
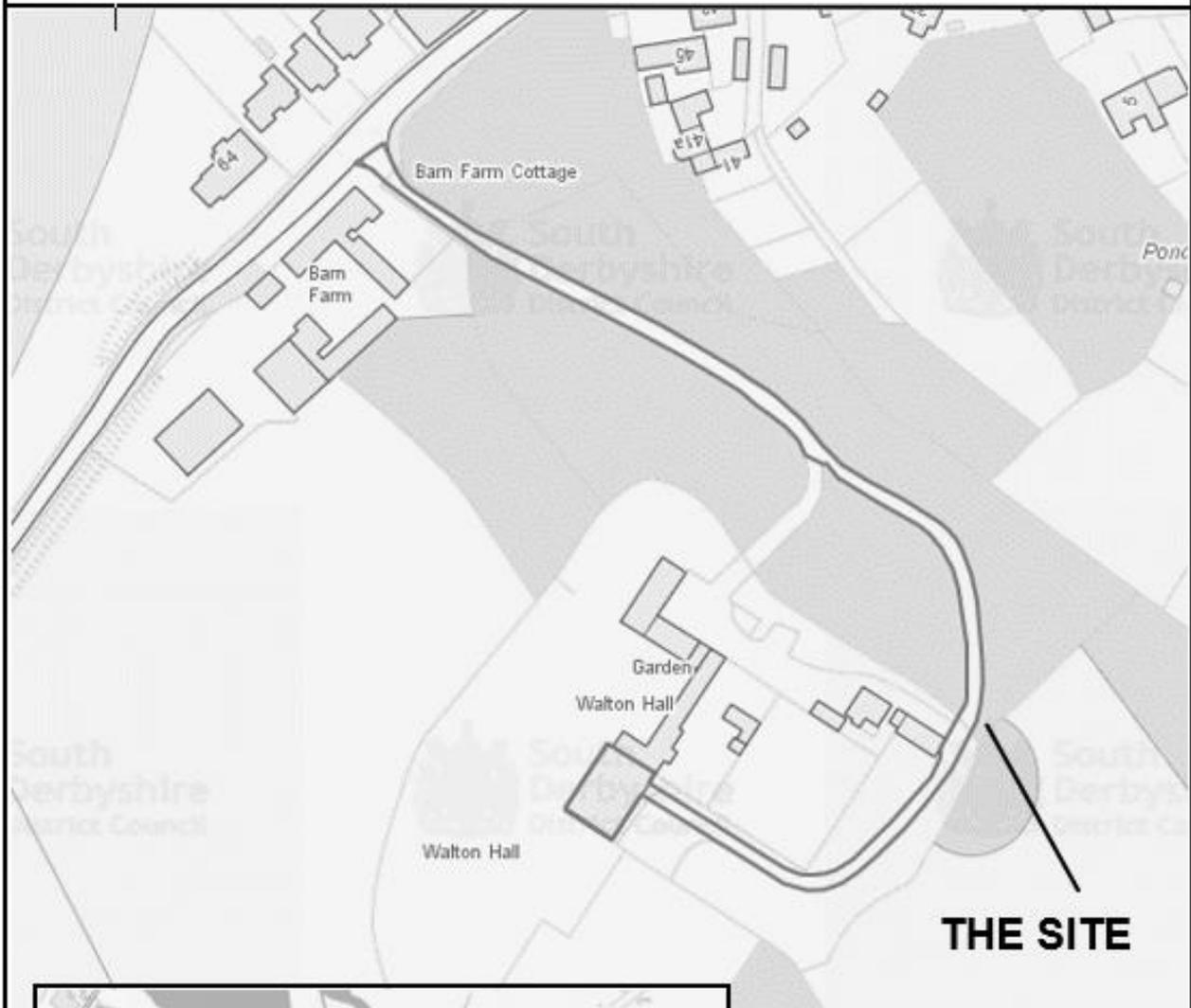
### **Relevant planning history**

DMPA/2020/0525 Listed Building Consent to repair, rebuild and re-use of existing outbuilding associated with main house to form plant room - Approved 06/07/2020

DMPA/2020/0445 - Repair, rebuild and re-use of existing outbuilding associated with main house to form plant room - Approved 06/07/2020

DMPA/2019/1006 - Listed Building Consent for the opening up of 7 former windows and modification to 1 external door - Approved 25/10/2019

**DMPA/2022/0412 – Walton Hall, Main Street, Walton-on-Trent, Swadlincote  
DE12 8LZ**



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DMPA/2019/0960 - Opening up of 7 former windows and modification to 1 external door - Approved 25/10/2019

9/2019/0293/FH – Proposed phase 1 works to the main hall comprising of the opening up of 8 former windows – Approved 6/06/2019. 9/2019/0310/L – Listed Building Consent for proposed phase 1 works to the main hall comprising of the opening up of 8 former windows, relocating kitchen to the former library, forming new openings within internal walls and the repair and reinstatement of joinery details – Granted on 06/06/2019.

## **Responses to consultations and publicity**

### Historic England (HE)

Walton Hall with its attached stable range/service wing and garden wall is listed grade II\* in light of its more than special national historic and architectural character and interest, placing it within the top 8% of listed buildings in England. The hall is a fine example of an early Georgian smaller country house. The building dates from 1724-29 and was built for William Taylor, and has subsequent early C19 and C20 alterations. Internally the Hall retains many important historic architectural features including fine panelled rooms, the historic staircase, cornices, and historic flooring, all of which make an important contribution to its significance and special interest. The original plan form is also clearly discernible. The site is located within the Walton on Trent Conservation Area and makes a strong positive contribution to its character and appearance.

The proposed scheme includes alterations to Window GW14, along with associated works and the provision of en-suite facilities on the first and second floors.

It is proposed to create a new en-suite at first floor level to the former dressing room accessed off bedroom four. In addition, it is proposed to create an en-suite at second floor level to the former dressing room accessed by bedroom 9 and 10. It is also proposed to refurbish the existing WC room at first floor to the north side into a shower room and a new WC facility at second floor level.

We have previously provided advice in relation to these proposals at the pre-application stage. The proposed en-suite facilities have been sensitively sited in order to minimise any harm to significance. We therefore have no objection to this element of the proposed scheme, subject to the detailed design and servicing. We are content to defer to your in-house conservation officer in this regard.

The blind window GW14 is proposed to be re-opened on the ground floor. We have previously provided advice in relation to this element of the proposed scheme (applications DMPA/2019/1006 & DMPA/2019/0960). In our advice we outlined that we were unsupportive of the proposal for the reasons outlined below.

The current historic staircase and panelling runs across this opening. It is therefore unlikely that the two features existed contemporaneously. We believe installing a window in this position would be conjectural and would visually detract from the architectural composition and the proportions of the entrance hall. It would also require the removal of historic panelling from its original position.

Our view remains unchanged in this regard. Furthermore, we do not believe that the opening-up of other blind windows at the hall sets a precedent as each window should be assessed on its individual merit. The proposed opening-up of window G14 would clearly have a harmful impact for the reasons previously outlined.

We therefore continue to advise that we are unable to support this element of the proposal.

Whilst Historic England has no objection to the proposed installation of en-suites, we are unable to support the proposed alterations to window GW14 as outlined above. We therefore recommend that this element is omitted from the scheme.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 199, 200 and 202 of the NPPF. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

Conservation Officer - I do not have any objections to the proposals for the en-suite facilities and the reinstatement of former blocked-up window opening at ground floor level.

With the opening-up of window G14, my assessment is that the proposed work would result in a degree of harm. I assess this to be less than substantial and consider it as medium impact. I take on board the comments from Historic England that the staircase and the window are unlikely to have previously existed contemporaneously, the likelihood being that the staircase was a 'new' staircase, albeit a significant time period has passed, which has resulted in a feature now considered worthy of retention.

With the creation of new en suite at first floor level and at the second floor level, the proposed en suites are positioned over the existing cloak room at ground floor and can easily connect into the existing foul water drainage. In addition, it is proposed to refurbish the existing WC at first floor to the north side into a shower room and creating a new WC facility over at second floor level. New waste water pipework will be concealed internally between the second and first floors, with the waste connecting to an existing cast iron SVP externally at first floor level.

It is my view, and this is my thinking for all historic assets, that their significance comes from their passing through time, the changes that each generation has made result in a patina, a valuable insight into changing fashions and craftsmanship. Owners are guardians of our heritage assets, and I have witnessed a desire by the new owners to protect and enhance this significant building. Allowing a small level of change to enable a more comfortable way of living, with a small alteration guided by 21st century conservation principles, is in my view a small level of harm to this magnificent building.

I conclude that I do not object to the proposals. I provide my comments to be presented in an Officer Report alongside those provided by Historic England for a final assessment at Planning Committee.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy BNE2 (Heritage Assets).

2017 Local Plan Part 2 (LP2): BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

Walton on Trent Conservation Area Character Statement 2014 (CACS)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant legislation is:

## The Planning (Listed Buildings and Conservation Areas)

### Planning considerations

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

- The impact on the significance of the heritage assets (listed building and conservation area)

### Planning assessment

#### The impact on the significance of the heritage assets (listed building and conservation area)

The NPPF states that when considered the impact of a proposal on the significance of a heritage asset great weight should be given to the assets consideration, irrespective of the level of harm and that any harm should require clear and convincing justification.

Policies BNE2 and BNE10 are in line with this national guidance and requires proposals to demonstrate how they have taken account of scale, form and siting.

Discussions with the Local Planning Authority and Historic England regarding this asset have been on-going in relation to various works, including the openings of the windows and internal alterations. The owner's overall vision for the site is to carry out a rolling programme of phased construction plan to refurbish, repair and upgrade the main hall, adjoining buildings and outbuildings. It is proposed to refurbish the main hall as the owner's main residence for use as their family home. The hall requires significant investment and upgrade to bring the listed building up to a standard and level of comfort and amenity that is expected of 21st century living.

The current proposal is for the reinstatement of 1 no former window adjacent to the main stair on the ground floor and the creation of additional bathroom/en suite and WC facilities on the first and second floors of the property. The application is supported by a Design, Access and Heritage Statement which provides detailed information and justification for the works identifying that the current owners have carried out a programme of urgent repair works after decades of neglect to prevent water ingress and provide the basis for undertaking further steps to suitably modernise the building and continue investing in its future.

Works proposed under this application are to reinstate and open-up the former ground floor window to the south east elevation, adjacent to the main stair. This is the last former window opening to the property to be reinstated. The former window has been bricked up, rendered and painted with a crude and simplistic image to give the impression of a window opening. The former window opening has been built with a brick arched head to match the elevation. The external masonry infill is recessed exposing a masonry reveal. Previous planning approval has been gained for opening up former blocked up windows at the property and has set a precedent. This has been carried out with success and has been a positive contribution to the development of the property. With the opening up of the window the applicant wishes to bring more light into the internal space and the condition of the external blocked up window and evidence of it being glazed, as per the other openings.

Historic England are unsupportive of this part of the proposal they say that they believe installing a window in this position would be conjectural and would visually detract from the architectural composition and the proportions of the entrance hall. It would also require the

removal of historic panelling from its original position and this would have a harmful impact on the heritage assessment. They consider that the significance of harm to this element of the proposal has not been clearly and convincingly justified as required by paragraph 200 of the NPPF 2021.

South Derbyshire District Councils Conservation Officer has visited the site and acknowledges that an open aspect glazed window would not have existed at the same time as the staircase in this orientation or position within the house. The proposed alteration may distort the interpretation of the plan form that is (conjecture) being created by installing a new window and 'to match' timber detailing inside. Within the heritage assessment submitted it is indicated that the original form was a true window; that a past alteration requiring a second staircase resulted in the owners at the time blocking up the window. However, whilst mindful of the comments of Historic England the Conservation Officer is of the view that the proposed works would result in a degree of harm which is considered to be less than substantial, and would have a medium impact. The works would assist the applicant in his refurbishment of the hall to ensure that the level of comfort and amenity that is expected of 21st century living is achieved and help secure the future of the hall. Accordingly they are of the view that this aspect of the proposal is in accordance with the relevant sections of the NPPF and can be supported.

The proposal for the alterations to form new bathroom/ensuite facilities is to create a new ensuite at first floor level to the former dressing room accessed off bedroom four. In addition, it is proposed to create an en-suite at second floor level to the former dressing room accessed by bedroom 9 and 10. It is also proposed to refurbish the existing WC room at first floor to the north side into a shower room and a new WC facility at second floor level. We have previously provided advice in relation to these proposals at the pre application stage. The proposed ensuite facilities have been sensitively sited in order to minimise any harm to significance. Neither Historic England or SDDC Conservation Officer has an objection to this part of the proposal.

On balance and having regard to the proposals and the comments received it is considered that the development, as submitted, is inline with the desirable objective described in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would conform to the requirements of Policy BNE2 of the Local Plan Part 1 and Policy BNE10 of the Local Plan Part 2.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents received on the 22nd March 2022 and 25th April 2022; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

3. If during development any unexpected features, not identified in the Design, Access and Heritage Statement or approved plans are discovered, works shall cease until the Local Planning Authority have had the opportunity to inspect and record, where necessary such features. Works can commence thereafter once it has been agreed in writing by the Local Planning Authority.

Reason: To enable heritage remains and features to be adequately recorded, in the interests of the cultural heritage of the District and in accordance with policy BN2 of the Local Plan Part 1 and BNE10 of the Local Plan Part 2.

**Item No.** 1.3

**Ref. No.** [DMPA/2022/0860](#)

**Valid date:** 15/06/2022

**Applicant:** Julie Hardcastle

**Proposal:** To change a mounded grass area into a small Miners Memorial Park, to include some hard surfacing, 2 no. seats, 2 no. pergolas, 2 no. sculptures, the planting of 18 no. trees, a wild flower meadow area, and bulb planting within the proposed trees, and one signage board at Eureka Park, Midland Road, John Street, Swadlincote

**Ward:** Swadlincote

### **Reason for committee determination**

The application has been made by South Derbyshire District Council on Council owned land.

### **Site Description**

The application site lies within the western corner of Eureka Park, Swadlincote, and comprises a mounded grass area. Along the southern edge of the site there are a number of large mature trees which run along the wide footpath which is just outside of the application site boundary. This footpath is one of the main routes in and out of the park, from Midland Road. The site is somewhat separate from the main park area to the east, and provides an area of green space that has amenity value but more limited leisure/recreation use when compared to the rest of Eureka Park.

### **The proposal**

The proposal is to create a Miners Memorial Park in this under utilised corner of the park, to promote local history and remember local people. The proposal includes the siting of mining sculptures and an information board; tree planting and creation of a wildflower meadow; as well as the installation of benches and two pergolas which are relics from local mines. A new gravel bound footpath is proposed to be laid through the centre of the site from the eastern end in an east/west direction, enabling greater accessibility to the site.

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

The application is supported by:

- Phase 2 Geo-Environmental Report
- Coal Risk Assessment
- Topographical survey

### **Relevant planning history**

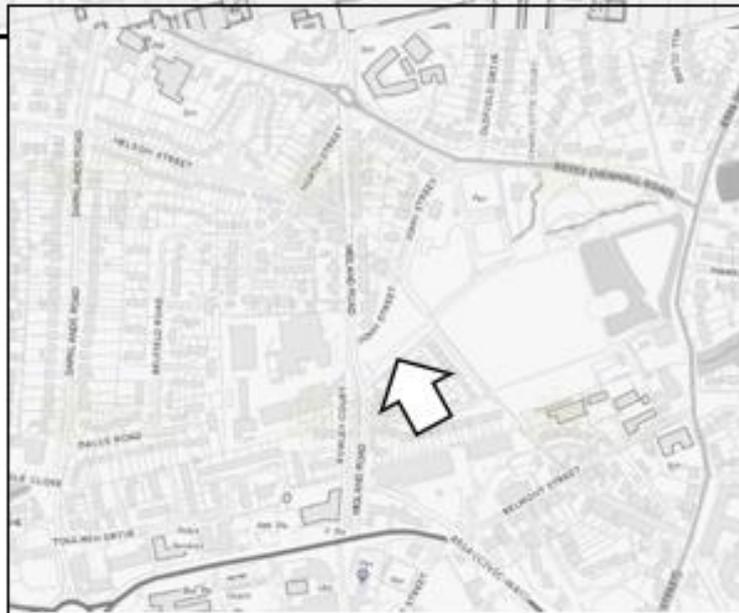
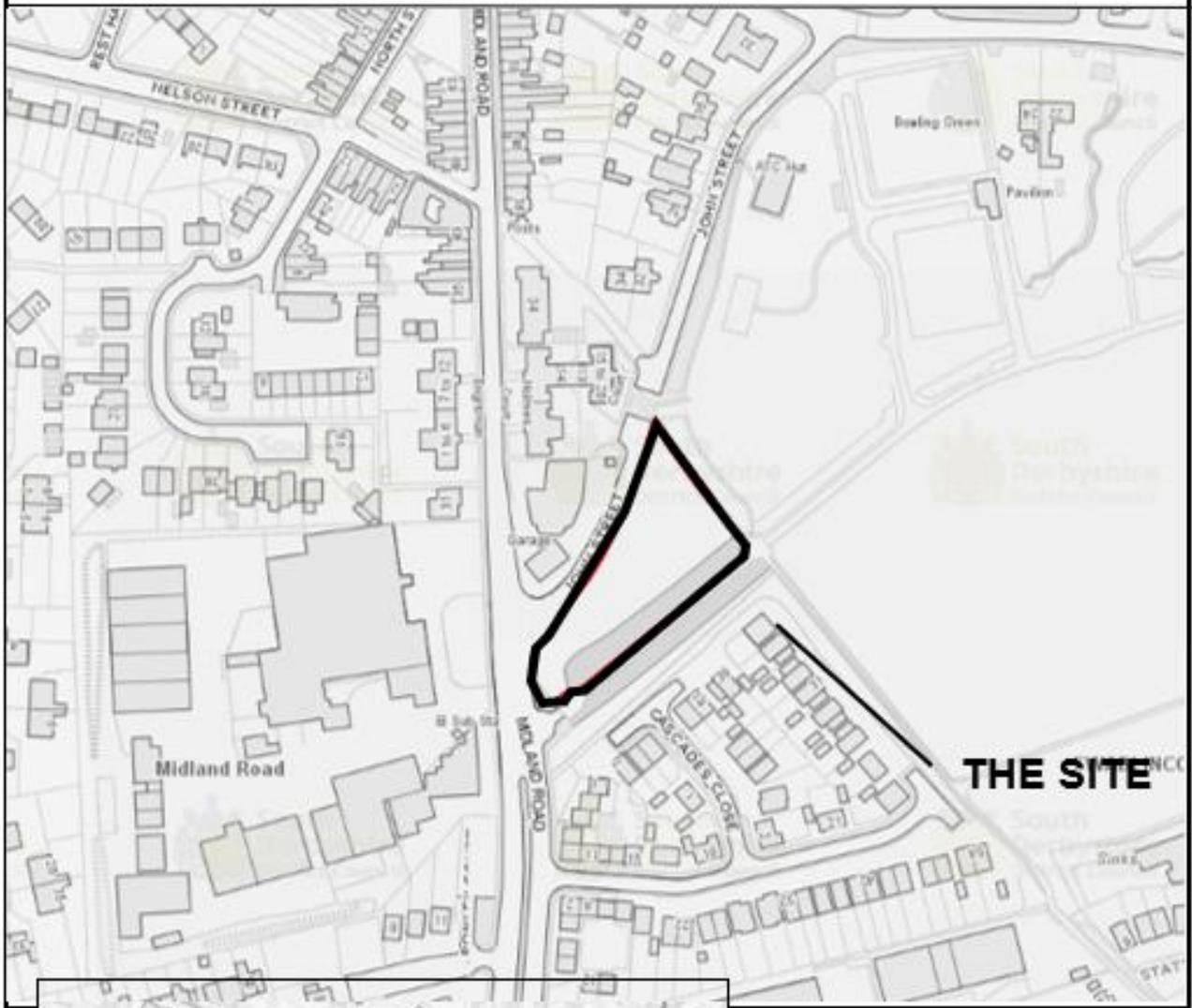
None

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

#### The Coal Authority

As you will be aware, the Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains

**DMPA/2022/0860 – Eureka Park, Midland Road, John Street, Swadlincote**



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coal mining information for the application site and submits a Coal Mining Risk Assessment (CMRA) to support the planning application. Notwithstanding the above, we note the submitted Coal Risk Assessment (May 2021, prepared by RGS Ltd), the content of which recommends intrusive site investigations. However, when considering that the nature of the development proposed is listed as exempt from Version 6, January 2021 of the Coal Authority's Guidance for Local Planning Authorities we do not consider that it would be reasonable to ensure the investigations by way of a planning condition and do not object to this planning application subject to an informative note being placed on any future decision notice.

#### Environmental Health

No comments

#### Derbyshire County Council - Rights of Way

I can confirm that Swadlincote Public Footpath No. 51 runs through the proposed development site, along the existing park pathway on the north east boundary.

The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposed works. I should be grateful however if you would advise the applicant as follows:

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

#### SDDC Parks and Green Spaces

With consideration to the submitted documents and the proposed site context, and the proposed development of the site, we have the following comments

- Request specification of the proposed meadow mix, consideration to appropriate mix for the formal park setting, a bespoke mix
- Request specification detail of proposed woodland mix
- Request specification detail of other proposed planting
- Specified size for proposed new standard trees methods of tree protection (refer to SDDC Tree Officer comments)
- Additional interpretation panel for placement close to Midland Road entrance to park
- Consider including breaks in herbaceous planting creating additional access points for visitors to navigate across the memorial.

#### SDDC Tree Officer

I can confirm that I do approve of the planting scheme (trees) as per details submitted within planning application (DMPA/2022/0860). I would also like to recommend that tree guards of some description are installed to deter antisocial activities that could result in major tree damage or even the loss of these trees.

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

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of

Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows).

#### Local Guidance

Design Guide Supplementary Planning Document (SPD)

#### National Guidance

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

### **Planning considerations**

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

- Principle of development;
- Landscape, trees and biodiversity;
- Coal Mining Legacy.

### **Planning assessment**

#### Principle of development

It is considered that the creation of a formalised area of public space in the form of a memorial park is in accordance with Policy S1 'Sustainable Growth Strategy' of the Local Plan part 1 as it would create an increase woodland cover, encourage healthy lifestyles through greater accessibility to open space for residents, as well as enhance the District's landscape. Policies BNE3 (Biodiversity), INF8 (National Forest) and INF9 (Open Space, Sport and Recreation) also provide support for this proposal as it will provide a net gain of biodiversity, enhance the biodiversity of open spaces and increases tree cover within the National Forest. In addition, it is considered that the celebration of local history is important to create a sense of place and belonging, as set out in the overall context of Paragraph 130 of the National Planning Policy Framework which states 'that decisions should ensure that developments are sympathetic to local character and history...and maintain a strong sense of place'.

#### Landscape, trees and biodiversity

Comments have been received from the Council's Tree Officer who has given support for the proposal and the planting scheme submitted. Comments have also been received from the Parks and Green Spaces team relating to specific planting information to be submitted as well as details of tree protection. Tree protection details were subsequently suggested by the Tree Officer in the form of a timber and wire cage fencing guard. These guards are a little intrusive in terms of their appearance, but as the trees will be vulnerable to damage as they become established, it is considered that the long term success of the trees takes precedent and the tree guards are acceptable. It is considered that the scheme will achieve an overall net gain of biodiversity and additional tree planting, which is in accordance with the policies of the Local Plan.

## Design

It is considered that the proposal has been well designed to create a positive public amenity space with a focus on local history. The sculptures are relatively small in size, as replicates of a pit pony and pit pony driver, and will not look overbearing. The two proposed pergolas (mining relics) are 3 metres in height which is considered to be acceptable for members of the public to walk underneath, but not too large as to be overbearing. Details of the hard landscaping as shown on the approved plans are considered acceptable in this location. Details of the brick plinth that the sculptures are intended to be sited on, can be secured through a planning condition and should be inkeeping with South Derbyshire materials. No objection has been raised by the County Rights of Way team in relation to the Public Right of Way situated to the south of the development site, provided that the applicant is reminded to keep the footpath accessible and no obstruction or encroachment occurs. It is therefore considered that the design element of the scheme is in accordance with the policies of the Local Plan.

## Coal Mining Legacy

A Phase 2 Geo-Environmental Report and a Coal Mining Risk Assessment have been submitted as part of the application. Environmental Health and the Coal Authority do not have any objection to the proposal, and the Coal Authority do not consider it would be reasonable to ensure investigations by way of a planning condition due to the nature of the development.

## Summary

It is considered that the proposal is in accordance with the policies of the adopted Local Plan, and will be a positive development for Eureka Park and Swadlincote.

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**

It is recommended planning permission be granted subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. Landscape Tree Planting Plan 'SDDC/LAND/002 Rev A'; Landscape Proposed Levels 'SDDC/LAND/007 Rev E'; Landscape Design 'SDDC/LAND/001 Rev E'; Landscape Planting Plan 1 of 2 'SDDC/LAND/010'; Landscape Planting Plan 2 of 2 'SDDC/LAND/009'; Sculpture Structural Details '1-001 Rev P1'; 'Pit Pony Dimensions received on 6 Sept 2022 and 'Pit Pony Driver Dimensions received on 6 Sept 2022' unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

Reason: In the visual interest of the building(s) and the surrounding area.

4. Prior to the development being completed a landscape ecological management plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include long-term design objectives, management responsibilities and maintenance schedules for all landscape areas. Where relevant, the maintenance schedules shall include means to annually review the condition of any hard surfaces, fixed play equipment or furniture, and replace/upgrade those surfaces, equipment and furniture on a rolling programme. The landscape management plan shall be carried out as approved.

Reason: In the interest of the visual setting of the development and the surrounding area over the lifetime of the development, and to ensure appropriate recreation facilities remain available to the public.

5. No less than one replacement tree for each tree removed shall be planted in the first available planting season after the works have been carried out (1 November to 31 March inclusive), of species, size, maturity and location(s) which have first been submitted to and approved in writing by the Local Planning Authority. Upon their planting, further confirmation and photographic evidence of their planting shall be provided in writing to the Local Planning Authority. Should any tree become diseased, be removed or die within 10 years of planting an equivalent tree shall be planted and retained for at least the same period.

Reason: To safeguard the long term biodiversity and visual amenities of the area.

#### Informatives:

- a. 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 at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former 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 new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. 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](http://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, excavations for 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 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](http://www.gov.uk/government/organisations/the-coal-authority)

- b. • The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
  - Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
  - There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

**Item No.** 1.4

**Ref. No.** [DMPA/2022/1120](#)

**Valid date:** 09/08/2022

**Applicant:** Heafield

**Agent:** TUKArchitecture

**Proposal:** **Listed building consent for the creation of a new disabled access, security gate, and erection of an external wall to create a new outdoor amenable space (amendment to existing consent reference DMPA/2021/1617) at Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF**

**Ward:** Melbourne

### **Reason for committee determination**

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

### **Site Description**

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

### **The proposal**

Listed Building Consent was granted by the Planning Committee at the meeting of 3 May 2022 for works at the Melbourne Assembly Rooms to allow an enclosed outdoor space area to be provided on the western side of the building. The space will be used for private functions held at the Assembly Rooms. The works included the creation of a new disabled access door in the western elevation of the building, allowing access into the outdoor space from the 'Shone Lounge', a black metal security gate on the northern elevation, to restrict access to the western side of the building from the front of the site and the erection of a 2 metre high brick wall within the site to enclose the new outdoor space.

As works commenced it was identified that an amendment to the alignment of the proposed new external wall was required. A new application for Listed Building Consent to reflect this amendment is therefore made. The application is accompanied with a concurrent application for a non-material amendment under Section 96A of the 1990 Town and Country Planning Act to the associated planning permission (DMOT/2022/0899).

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

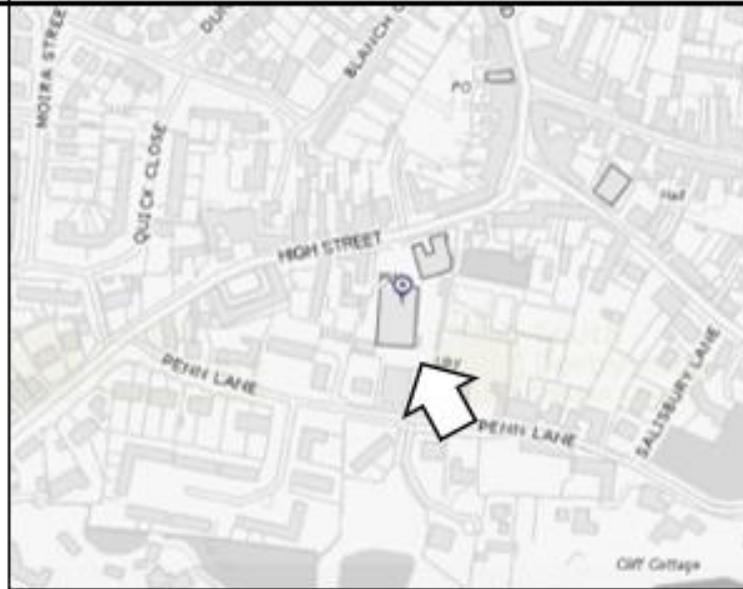
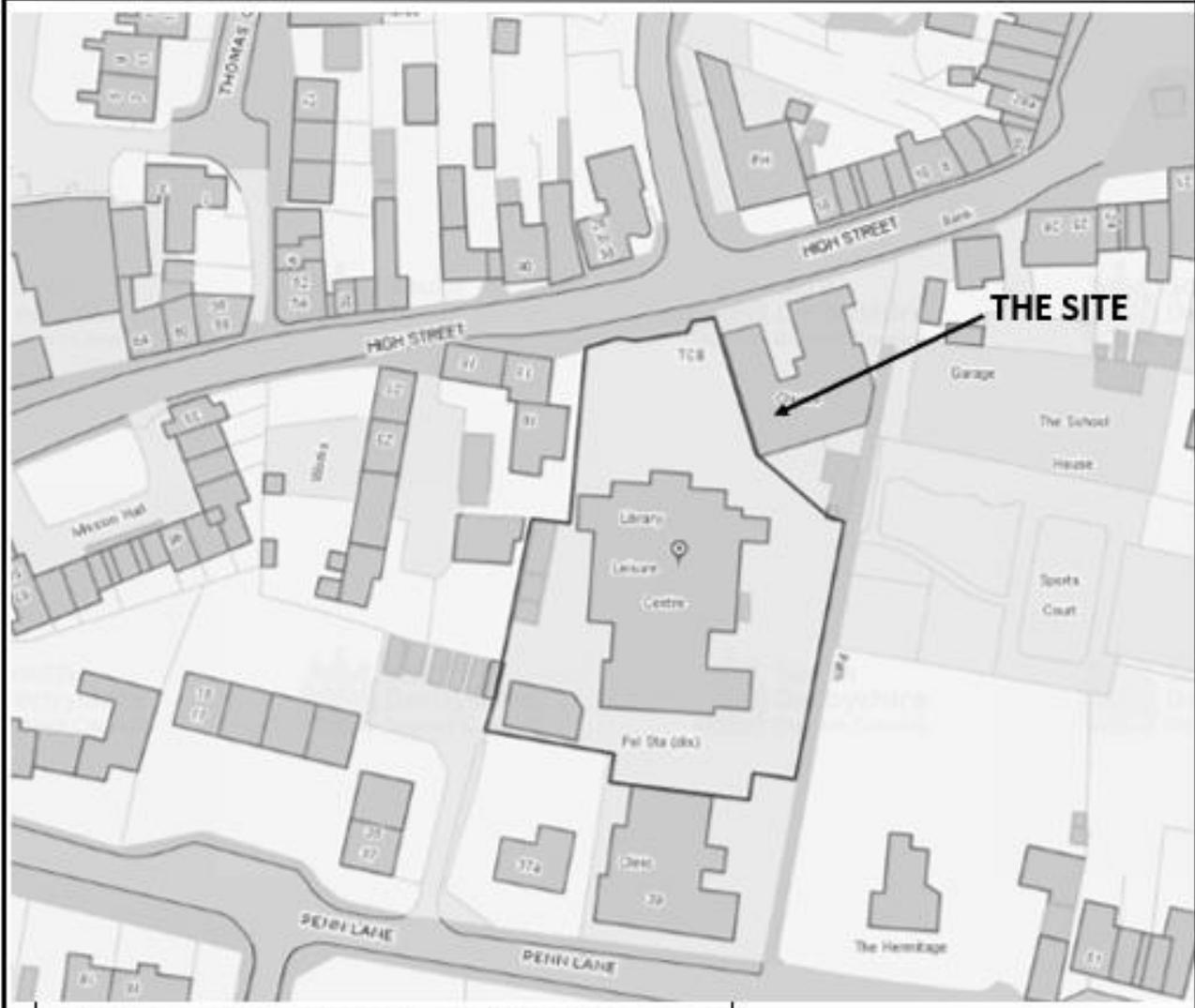
A Planning Statement has been submitted in support of the proposed amendment to the previously approved scheme, along with updated plans.

### **Relevant planning history**

DMPA/2021/1597 : New disabled access, security gate and erection of an external wall to create a new outdoor amenable space. Approved 5 May 2022.

DMPA/2021/1617 : Listed Building Consent for creation of a new disabled access, security

**DMOT/2022/0899 - Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF**



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gate and erection of an external wall to create a new outdoor amenable space. Approved 5 May 2022.

DMPA/2021/1420 - Various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision. Approved 8 February 2022.

DMPA/2021/1469 - Listed Building Consent for various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision. Approved 8 February 2022.

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

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

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

Melbourne Civic Society - No objection.

Conservation Officer - No objection to the proposed amendment.

#### Responses to Publicity

No responses have been received.

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

#### The relevant Development Plan policies are:

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

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE10 (Heritage).

2022 Melbourne Neighbourhood Development Plan: HC1 (Preservation of the historical and cultural heritage assets and existing Conservation Areas).

#### The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
Melbourne Conservation Area Statement Adopted 2011

#### The relevant national policy and guidance is:

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

## **Planning considerations**

Under the assessment of the original Listed Building application for these proposed works it was determined that the alterations would result in a degree of harm to the listed building, however, this would be relatively minor and less than substantial. It was considered that the harm would be offset by the resulting improvements to the facilities of the Assembly Rooms and therefore the proposal was in accordance with policy BNE2 of the LP1, policy BNE10 of the LP2 and the Council's duties under section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation of a Listed Building, its setting and any features of special architectural or historic interest which it possesses.

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue central to the determination of this application is whether the proposed amendment to the previously approved scheme is acceptable in terms of its impact on the on the historic fabric and external character of the listed building.

## **Planning assessment**

The proposed alteration to the previously approved Listed Building Consent concerns the alignment of a proposed new wall, which is to be built between the south-western corner of the main Assembly Rooms building and the western boundary wall of the site. The new wall will enclose the proposed area of outdoor amenity space which is to be established for private functions. It has transpired that a minor amendment to the line of the wall is required to avoid a gas pipe and main drain located close to the site boundary.

The new wall will end a couple of metres before meeting the boundary wall to avoid these features. The new gate into the amenity space area will be located to the side of the end wall pillar and a further short section of wall then built to adjoin the other side of the gate to the existing boundary wall of the site.

The Conservation Officer has confirmed that there are no objections to this minor alteration to the line of the new wall, which will preserve the setting and historic interest of the Listed Building.

Therefore, it is considered that the proposal is in accordance with Policy BNE2 of the LP1, Policy BNE10 of the LP2 and the Council's duties under section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation of a Listed Building, its setting and any features of special architectural or historic interest which it possesses.

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**

It is recommended that the application is approved, subject to conditions.

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

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

2. The works hereby permitted shall be carried out in accordance with the following plans:
  - Location and Block Plan, 2108-02-P03 Rev. D;
  - Elevations and Detailed Sections, 2108-02-P02 Rev. D;
  - Proposed Floor Plans, 2108-02-P01 Rev. D; unless as otherwise required by condition attached to this consent.

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

**Item No.** 1.5

**Ref. No.** [DMOT/2022/0899](#)

**Valid date:** 23/06/2022

**Applicant:** Heafield

**Agent:** TUKArchitecture

**Proposal:** Non material amendment to planning permission ref. DMPA/2021/1597 to amend line of proposed new external wall at Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF

**Ward:** Melbourne

### **Reason for committee determination**

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

### **Site Description**

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

### **The proposal**

This application seeks a non-material amendment to planning permission DMPA/2021/1597, which granted permission for various works at the Melbourne Assembly Rooms associated with the creation of a new, enclosed area of outdoor amenity space on the western side of the building. The area is to be used for private functions.

A new application for a revised Listed building consent (DMPA/2022/1120) has also been submitted.

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

A Planning Statement has been submitted in support of the proposed amendment to the previously approved scheme, along with updated plans.

### **Relevant planning history**

DMPA/2021/1597: New disabled access, security gate and erection of an external wall to create a new outdoor amenable space. Approved 5 May 2022.

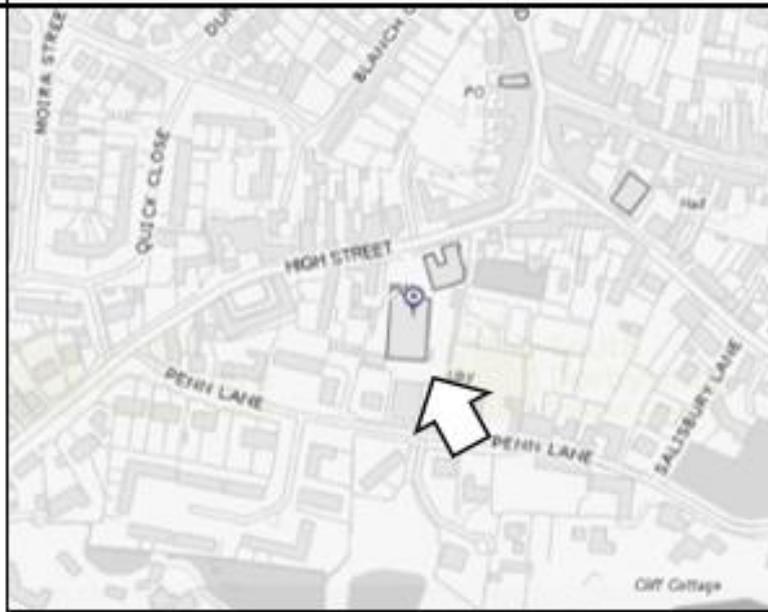
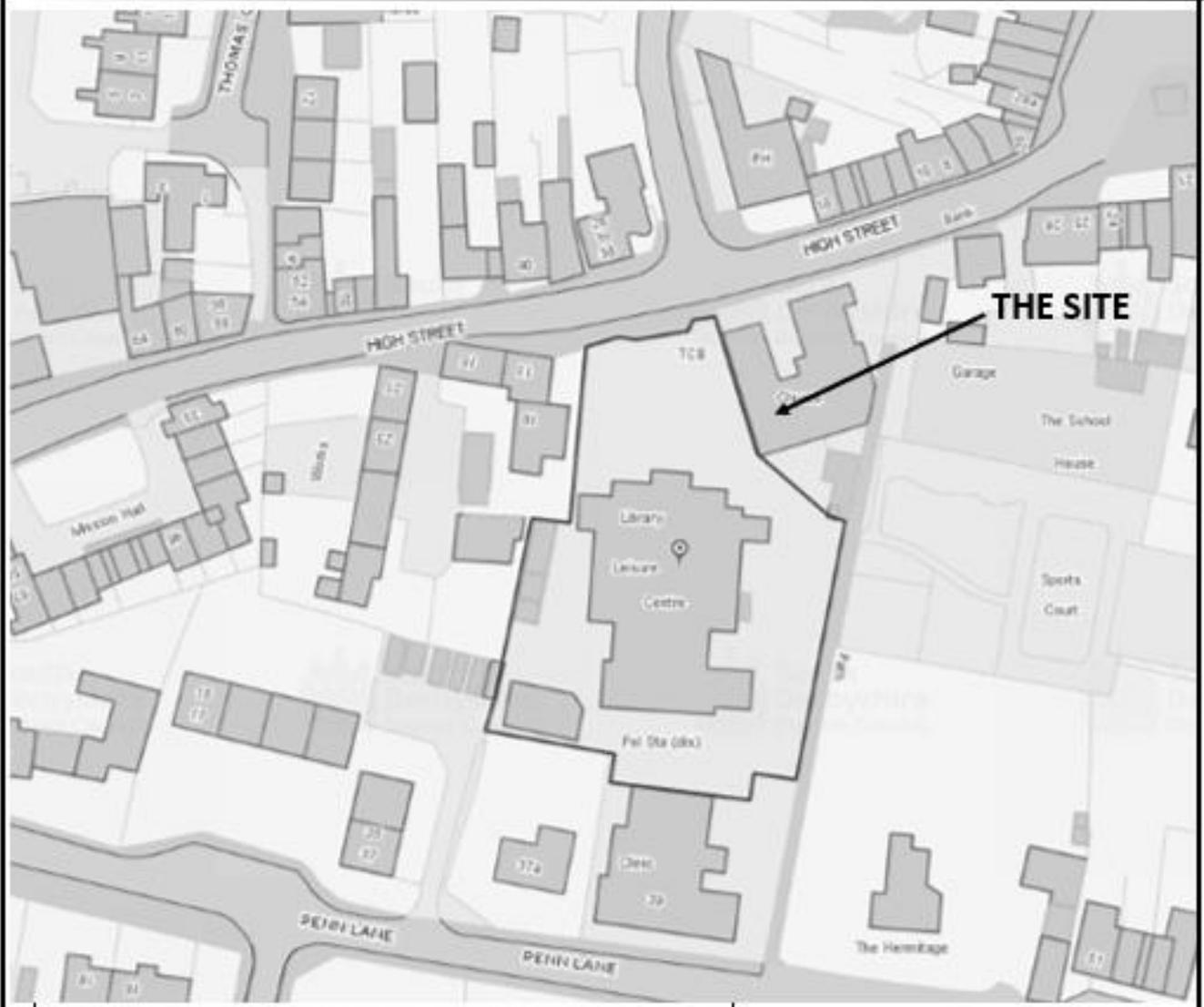
DMPA/2021/1617 : Listed Building Consent for creation of a new disabled access, security gate and erection of an external wall to create a new outdoor amenable space. Approved 5 May 2022.

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

SDDC Conservation Officer : No objection.

Given the nature of the application and the amendments proposed no other consultations have been carried out.

**DMOT/2022/0899 - Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF**



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

The relevant Development Plan policies are:

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

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE10 (Heritage)

2022 Melbourne Neighbourhood Development Plan : HC1 (Preservation of the historical and cultural heritage assets and existing Conservation Areas)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
Melbourne Conservation Area Statement Adopted 2011

The relevant national policy and guidance is:

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

### **Planning considerations**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue central to the determination of this application is whether the proposed amendment to the previously approved scheme is acceptable in terms of its impact on the historic fabric and external character of the listed building.

### **Planning assessment**

Section 96A of the 1990 Town and Country Planning Act allows a local planning authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is non-material. The Planning Practice Guidance "Flexible Options for Planning Permissions" states that there is no statutory definition of what is considered to be non-material, by reason that it is entirely dependent on the context of the overall scheme.

In this case, the proposed alteration concerns the alignment of a proposed new wall, which is to be built between the south-western corner of the main Assembly Rooms building and the western boundary wall of the site. The new wall will enclose the proposed area of outdoor amenity space which is to be established for private functions. It has transpired that a minor amendment to the line of the wall is required to avoid a gas pipe and main drain located close to the site boundary.

The new wall will end a couple of metres before meeting the boundary wall to avoid these features. The new gate into the amenity space area will be located to the side of the end wall pillar and a further short section of wall then built to adjoin the other side of the gate to the existing boundary wall of the site.

The Conservation Officer has confirmed that there are no objections to this minor alteration to the line of the new wall, which will preserve the setting and historic interest of the Listed Building and the character and appearance of the Melbourne Conservation Area. It is therefore recommended that this application for a non-material amendment to previously approved application DMPA/2021/1597 is approved.

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**

It is recommended that the non-material amendment to application DMPA/2021/1597 is approved subject to the following list of amended approved plans:

Proposed Floor Plans – Drawing number 2108-02-P01 Rev. D

Elevations and Detailed Sections – Drawing Number 2108-02-P02 Rev. D

Location and Block Plan – Drawing number 2108-02-P03 Rev. D

**Item No.** 1.6

**Ref. No.** [DMOT/2022/1073](#)

**Valid date:** 28/07/2022

**Applicant:** Martin Buckley

**Proposal:** **The pruning of a Ivy and Eiffel Tower bracket (*Pseudoinonotus dryadeus*) trees covered by South Derbyshire District Council Tree Preservation Order no. 360 on Main Street, Netherseal, Swadlincote, DE12 8BZ**

**Ward:** Seales

### **Reason for committee determination**

This application is from the Councils Parks and Greenspaces Team.

### **Site Description**

The proposals to T1 and T2 (Oak trees) are covered by South Derbyshire District Council Tree Preservation Order no. 360, they are located within a cemetery at Main Street, Netherseal, Swadlincote and are situated within the Netherseal Conservation Area. T1 partially overhangs Netherseal Lawn Tennis Club (both club buildings and court), whilst T2 overhangs the access track and one of the courts which is understood to also be utilised as an activity area for the adjacent Netherseal St Peter's Primary School.

### **The proposal**

The proposals to oak trees, T1 and T2, are the pruning of an Ivy and Eiffel Tower bracket (*Pseudoinonotus dryadeus*).

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

The applicant has provided an Arboricultural Report of the works to the two oak trees.

### **Relevant planning history**

9/2017/1052 - The pruning of oak trees covered by South Derbyshire District Council Tree Preservation Order number 360

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

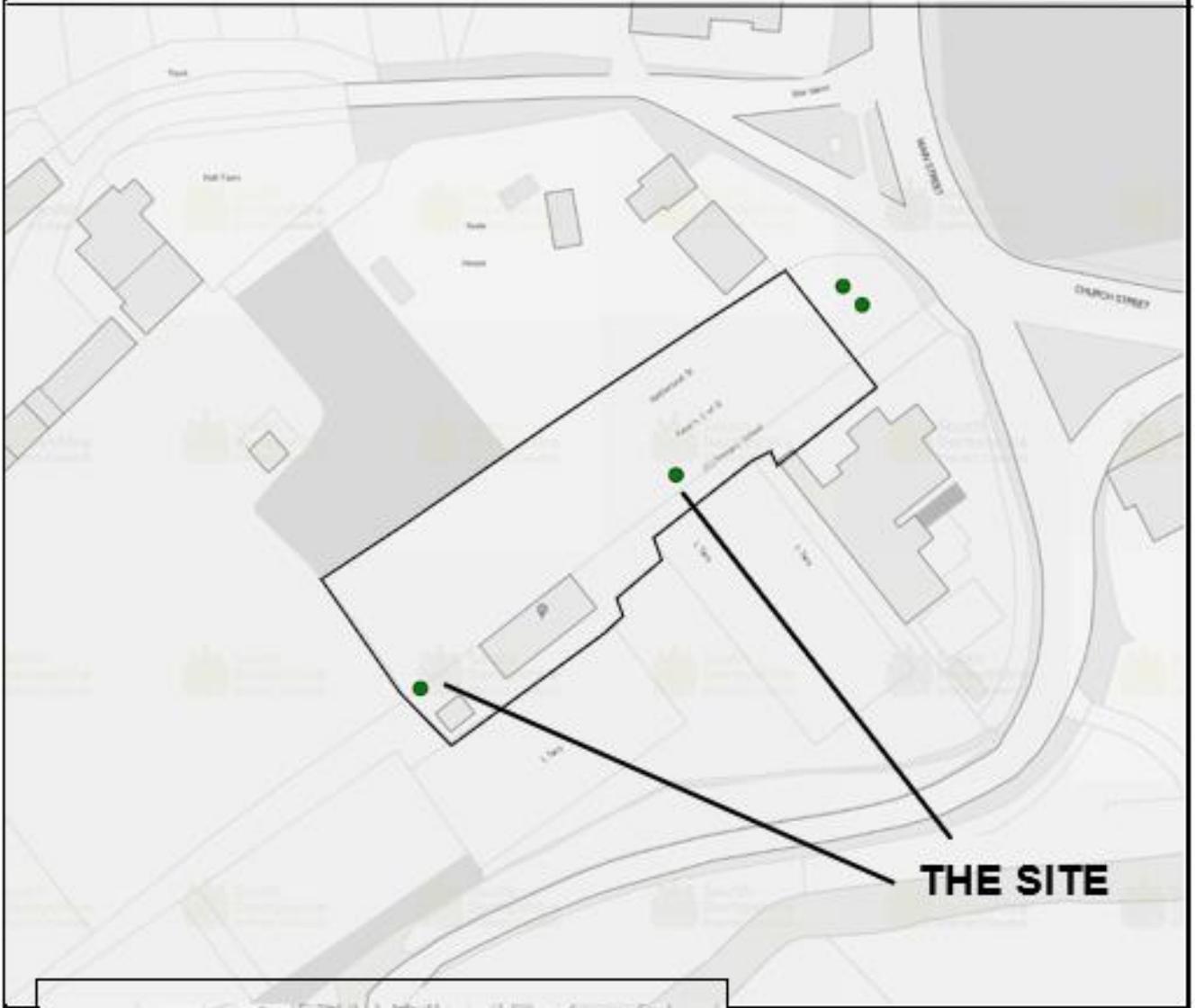
SDDC Tree officer comments can be summarized as follows: Acceptable works which should be referred to Planning Committee.

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

The relevant Development Policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness)

**DMOT/2022/1073 – Main Street, Netherseal, Swadlincote, DE12 8BZ**



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2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant legislation is:

The Town and Country Planning (Tree Preservation) Regulations 2012

### **Planning considerations**

Considerations include, albeit not limited to national advice within the National Planning Policy Framework (NPPF); the Planning Practice Guidance (PPG). Regard is also had to the provisions of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 (the Regulations). The main issues central to the determination of this application are whether the proposed works are appropriate, given the Tree Preservation Order (TPO) on the trees.

### **Planning assessment**

#### Context

The trees to which this application relates are located within the Netherseal conservation area, as well as being covered by Tree Preservation Order (TPO) No. 360.

The proposed works to the two oak trees, T1 and T2, are the pruning of an ivy and Eiffel Tower bracket (*Pseudoinonotus dryadeus*). An Arboricultural Report has been submitted, and the recommended works to the two trees in question are as follows:

#### **T1 English oak (*Quercus robur*)**

Dumping of grass clippings should be ceased from around the base of the tree as this will create anaerobic soil conditions. Ivy should be severed and stripped from the main structure of the tree, allowing it to be reassessed. This tree should be maintained in an ivy free state to aid long term monitoring. Next assessment of the tree must focus upon hollowed out section of main stem.

#### **T2: English oak (*Quercus robur*)**

Substantial crown reduction pruning to ensure the tree remains at an acceptable risk to both users of the closed cemetery plus the school and adjacent tennis courts. At this stage, the key issue is to reduce the breadth and height of the crown, reducing excentric loading and the likelihood of major branch shedding.

As long as the tree responds positively, is also considered highly appropriate in terms of maintaining a more consolidated, squatter crown to reduce further wind loading on the trunk base, which will likely be subject to progressive hollowing out.

#### Assessment

The PPG states that in considering an application to undertake works to protected trees, the local planning authority should assess the impact of the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it (*Paragraph: 089 Reference ID: 36-089-20140306*).

On that basis, it is concluded that the proposals are acceptable in terms of the trees health,

vitality and visual amenity, ensuring that the tree is actively managed to secure its long term future and biodiversity benefits. In Conclusion, it is deemed that the proposed works would be in line with the aims and objectives of aforementioned policies of the development plan.

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

## **Recommendation**

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

1. The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the trees.

2. The works shall be carried out in accordance with the plans submitted and details of the plans submitted on the application form, on the 28<sup>th</sup> of July 2022, in accordance with BS3998:2010 British Standards 3998 2010 - About Tree ([abouttrees.co.uk](http://abouttrees.co.uk)) Tree Work (or equivalent document which may update or supersede that standard).

Reason: To ensure that the works are carried out in the best interests of the health of the trees.

## 2. 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="#">DMPA/2021/1389</a>	Newhall	Newhall and Stanton	Dismissed	Delegated
<a href="#">DMPA/2019/1176</a>	Castle Gresley	Linton	Allowed	Committee

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## Appeal Decision

Site visit made on 3 August 2022

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> August 2022

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**Appeal Ref: APP/F1040/W/22/3291427**

**42 Alma Road, Newhall, Swadlingcote, South Derbyshire DE11 0SD**

- 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 Martin Boyle against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2021/1389, dated 7 September 2021, was refused by notice dated 7 January 2022.
  - The development proposed is change of use from Public open Space to residential garden space & to erect a mesh metal fence to the eastern elevation @ 2.4m and match existing wooden fence/concrete posts to south east elevation with gravel boards (concrete) and to match existing neighbours rear fence on northern elevation with matching posts & timber fence @ circa 2.2m high in a straight line per privacy.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. Although described in the reason for refusal as informal green space, the Open Space, Sport, and Community Facilities Strategy (OSSCFS) refers to this type of space as amenity green space (AGS). I have used that phrase in this decision.

### Main Issue

3. The main issue is the effect on the provision of open space.

### Reasons

4. The appeal site is part of an area of land identified as AGS which was provided as part of an adjacent housing development that was granted consent<sup>1</sup>. The comments of the Council, the appellant and a neighbour set out that this area of land is used for informal recreation.
5. South Derbyshire Local Plan Part 1 June 2016 (SDLP) Policy INF9(D) seeks to prevent the loss of open space. Given the wording of the policy and the supporting text, in so far as it relates to this appeal (and notwithstanding the use of the word 'built' in the supporting text), I consider the policy to mean that the loss of open space will only be allowed where there is an excess of provision or that the loss is compensated for. I do not interpret the policy as requiring further exceptional circumstances to be identified.

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<sup>1</sup> 9/0399/0999

6. Nevertheless, the OSSCFS identifies a shortfall of AGS in Newhall and I consider this to be the most appropriate figure to use, given the types of open space identified and the localised nature of the appeal of AGS. I acknowledge that an area of AGS would remain. However, the loss of even this relatively small area would exacerbate the existing shortfall. This is due to the acknowledged value of the site to the surrounding community, the identified concentration of deprivation in Newhall and the deficit in overall open space by 2028 as planned development comes forward.
7. The appellant has highlighted that there is an oversupply of open space in the Central area. While the OSSCFS does identify this, it was in the context of establishing a baseline and target for future provision within the authority based on the then current levels of open space. It is also heavily reliant on a different part of the sub-area. However, these factors are neutral and do not change my conclusion that there is a shortfall in AGS.
8. I note that the appellant has offered a financial contribution of £1500 and 20t of topsoil to compensate for this loss. There is no substantive evidence before me as to whether this contribution would allow for equivalent or better provision to be made elsewhere. Even if I were to consider that this contribution was sufficient, there is no mechanism before me to secure it. I therefore attach no weight to this consideration.
9. In relation to this main issue, I conclude that the appeal proposal would result in the loss of AGS in an area of identified shortfall. No equivalent or better provision has been offered. I therefore find the appeal proposal would be harmful to the provision of open space contrary to SDLP Policy INF9 and paragraph 93 of the Framework which seeks to protect valued facilities.

### **Other Matters**

10. I acknowledge that the fence would provide privacy and security for the appellant, that there is a large park nearby, and there is no impact to the character and appearance of the street scene, living conditions of nearby occupiers, landscape and biodiversity, but these matters do not outweigh the harm I have identified in the loss of this public open space. Furthermore, I have no substantive evidence that there is any anti-social behaviour in the area with people congregating and paraphernalia being left within the appeal site. These would be matters for the relevant authorities and are not within my jurisdiction. In any event, the appeal is determined on the basis of the evidence before me and site observations.
11. I note the offer to move the fence however that would be a different proposal to that before me. The suggested hedge would be outside of the appeal site and therefore does not form part of my consideration.

### **Conclusion**

12. For the reasons given, the appeal scheme would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

*J Downs*  
INSPECTOR



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## Appeal Decision

Site visit made on 19 July 2022

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 September 2022

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**Appeal Ref: APP/F1040/W/21/3287625**

**Land at Oak Close, Castle Gresley, Swadlincote, Derbyshire**

- 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 Matt Rice (EMH Homes) against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2019/1176, dated 11 October 2019, was refused by notice dated 3 June 2021.
  - The development proposed is 100% affordable 70 unit residential scheme with associated works.
- 

### Decision

1. The appeal is allowed and planning permission is granted for 100% affordable 70 unit residential scheme with associated works at Land at Oak Close, Castle Gresley, Swadlincote, Derbyshire in accordance with the terms of the application, Ref DMPA/2019/1176, dated 11 October 2019, subject to the conditions set out in the schedule attached to this decision.

### Preliminary Matters

2. After refusal of the planning application, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, both parties have referred to the revised version in their respective appeal statements. I am therefore satisfied that there was no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. Amended plans were submitted with the appeal. These are as follows: Public Open Space and Forestry Planting (Drawing Number 2494-13 E); Site Layout (Scheme 4) (Drawing Number 2494-33 L); and Landscape Masterplan (Drawing Number 1916-PL1-02 F). It is explained that these were amended to correct discrepancies and update the plans where required to align with those changes made prior to determination of the planning application.
4. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local

planning authority, and on which interested people's views were sought (Annexe M.2.1).

5. Notwithstanding that, in deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles'<sup>1</sup> and whether any prejudice would occur. I understand that the Council assessed the site layout plan prior to determination and that subsequent updates to other plans were made to align with these changes. Given the nature of the changes, and that the amendments correct discrepancies, I am satisfied that the Council, or other interested parties, would not be prejudiced if I determined this appeal on this basis.
6. A Unilateral Undertaking (UU) has been received (dated 19 June 2022). The UU includes obligations relating to affordable housing, financial contributions to Derby County Council (DCC) as the local education authority and to NHS Estates, and to secure details of the flooding and drainage proposals and their ensuing maintenance.
7. The Council has expressed concern that the proposed Local Equipped Area for Play (LEAP) and open space facilities are not mentioned in the UU despite this being referenced as so in the appellant's appeal statement. The appellant has clarified that this does not relate to the correct paragraph in their statement and that these matters are secured by condition, which is agreed in the Council's officer report to committee. The appellant has accepted the conditions proposed, and I have had regard to the UU in my assessment.

### **Main Issues**

8. The main issues are the effects of the proposal on the character and appearance of the area and whether sufficient contributions for offsite infrastructure and service provisions are provided.

### **Reasons**

#### *Introduction*

9. The appeal site comprises an agricultural field located on the edge of the built form of Swadlincote. There are houses located to the west, north and east while vehicular access is provided from Oak Close. To the south and southwest of the site are open fields which transition into open countryside, while a belt of tree coverage is located along the southwestern boundary.
10. The proposal seeks to erect 70 affordable dwellings comprised of a mixture of two-storey semi-detached, semi-detached bungalows and flats within two-storey buildings. All would have off-street parking and gardens. These would be contained within a layout broadly consisting of three internal roads forming cul-de-sacs. Vehicular access to the site would be provided using the existing field gate at Oak Close. Also included within the site would be flood attenuation basins to manage on and off-site drainage, as well as areas for open space, play equipment, outdoor recreation and forest planting.

#### *Character and Appearance*

11. Policy H23 of the South Derbyshire Local Plan Part 2 (LP2) (Adopted November 2017) includes non-strategic housing allocations, with site-specific briefs

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

outlining potential constraints. The appeal site is detailed within H23J and advises 'around' 55 dwellings.

12. The crux of the disagreement between the parties regarding this issue surrounds the density of development. Although the proposal for 70 dwellings represents an increase over the figure advised in H23J, this is not necessarily harmful in and of itself. The wording of H23J allows flexibility when detailed design is undertaken to maximize the potential of the site for development. It follows that density, taken as a dwellings per hectare (dph) figure, would also be flexible.
13. The development site boundary has been amended to the southern edge to accommodate the required drainage basins. Although this has increased the site area over and above that drawn in H23J, the basins would not be readily apparent in the wider landscape and allow the development to provide a larger area of green space to offset the built form. In this context, regardless of whether density is taken as 22 or 34 dph depending on the size of the site, the built form of the proposal is contained within the original site allocation boundary. I note the Council agrees with this.
14. In any event, density and layout must be considered within the context of the overarching H23 policy, which requires proposals to consider the impact of development on landscape, flood risk/drainage and design and layout relative to the site characteristics, among other things.
15. The submitted Site Layout plan demonstrates that although the density of the site overall is greater than surrounding developments, it includes generous rear gardens, open space, woodland, meadow and play areas. These help to offset the increased density and provide visual relief to the built form of the site. Indeed, the areas of forest planting and open space exceed the aspirational contributions sought in the National Forest Planting Guidelines and the Section 106 - A Guide for Developers Supplementary Planning Document respectively.
16. Overall, whilst the appeal site is a pleasant area of agricultural land, it is not covered by any designation and is not of particular significance locally. In addition, the land is not unduly prominent in the area, visible primarily from the access at Oak Close, houses on that street and those on Mount Pleasant Road facing the field. As such, the proposal would be seen within the context of existing housing development. This would lessen its impact locally.
17. To conclude, the development would not be harmful to the character and appearance of the area due to overdevelopment of the site. This would accord with Policies S2, H20, BNE1 and SD1 of the South Derbyshire Local Plan Part 1 (LP1) (Adopted June 2016). These seek, among other things, to ensure new development is well designed, embraces the principles of sustainable development, encourages healthy lifestyles and enhances people's quality of life by adhering to the Design Principles outlined.

#### *Developer Contributions*

18. The Council advised during the application process that a total of £884,361 was required in developer contributions, split between education, open space provision, outdoor sports and built facilities, health services, travel plan monitoring and library provision.

19. Policy INF1 of LP1 states that new development which generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of that development is provided. This could be included within the development or via a suitable mechanism to ensure this is delivered.
20. Policy INF6 of LP1 requires that development that increases the demand for community facilities and services either provides the required community facilities as part of the development or makes appropriate contributions towards providing new facilities or improving existing facilities.
21. The proposed development would lead to an increase in the local population which would create additional demand for local services. Sufficient evidence has been submitted to demonstrate that additional provision would be required to cope with the increased demand on existing facilities and therefore, based on the evidence before me, these obligations are necessary to make the proposal acceptable, and meet the statutory tests contained in Regulation 122 of the CIL, and the requirements of paragraph 56 of the Framework.
22. The proposal would deliver the necessary on-site public open space, including a LEAP, plus an area of National Forest planting secured by an appropriately worded condition. However, of the remaining elements requested by the Council, the UU only includes obligations to secure financial contributions to Derby County Council (DCC) as the local education authority and to NHS Estates totalling £25,500. The appellant does not dispute the need for the obligations requested, although they have queried the amounts suggested by the Council. Even if I was to take the appellant's revised figure, which is some £232,249.31 less than the Council's figure, the contributions proposed are a substantial shortfall set against those requested resulting in the under-delivery of infrastructure to support the development
23. Based on the above, the proposal would not provide suitable developer contributions contrary to Policies INF1, INF2, INF6, INF9, S1, S2 and S6 of the LP1 and H23 of the LP2. These seek to ensure sufficient infrastructure and community facilities are provided either as part of the development or as a contribution elsewhere.

### **Other Matters**

24. I have had regard to comments received from interested parties, including the local Parish Council. Matters such as service and infrastructure provision and/or capacity, and character and appearance have been addressed within the main issues of this report.
25. Although I understand local residents may have concerns regarding highway safety and transport links, these were assessed by the Council's highways team and found to be acceptable. The Council's officer report concluded this aspect of the proposal was in accordance with the development plan and I see no reason to disagree. Similarly, concerns regarding trees and ecological interests were assessed in the submitted reports and surveys and found that the proposal would provide a net gain in biodiversity through habitat creation and planting.

26. Flood risk and water management will be aided on site and locally by the creation of the detention basins and I have no reason to doubt that mains water connections are not adequate in the area to accommodate the development. Although Japanese Knotweed may have been identified within the appeal site, a condition has been agreed to assess and treat this matter prior to commencement of works.
27. The site is bordered by housing on two sides. Although some of these properties would have views of the development, there is nothing before me to suggest this would be harmful to the living conditions of occupiers of these properties. This was not raised by the Council, and I have nothing before me to substantiate this concern. While there are other concerns that affordable housing would give rise to anti-social behaviour, there is no evidence before me that this would be the case.

### **Planning Obligation**

28. I have already considered the financial contributions requested by the Council and found them to meet the relevant tests. In addition, the submitted UU includes obligations to provide affordable housing and delivery and maintenance of drainage infrastructure.
29. Policy H23J of the LP2 advises that the allocation for the appeal site is required to provide a detailed drainage strategy. Policy H21 of the LP1 states the Council will seek to secure up to 30% of new housing development as affordable housing as defined in the NPPF on sites of over 15 dwellings. I am satisfied therefore that these obligations also meet the relevant tests.

### **Planning Balance and Conclusion**

30. The Council argues that it can demonstrate a five-year supply of deliverable housing land. While the appellant does not dispute this, they advise the figure is just above five years and somewhat precarious based on a recent appeal decision<sup>2</sup> and an approved planning application<sup>3</sup>, the latter of which places the supply at 5.09 years. Regardless, the proposal would add 70 dwellings to the Council's existing stock and, being on an allocated site, would form part of the Council's supply and therefore their provision would be of significant benefit.
31. Moreover, the appellant has presented evidence that the Council has significantly underdelivered on their affordable housing targets. Figures from the Strategic Housing Market Assessment Full Report (January 2020) show that from 2011/12 to 2018/19 883 affordable homes were delivered giving an average 110 affordable homes per year, considerably lower than the 325 units/annum required. Furthermore, in 2018 there were 644 households on the Council's housing waiting list I have not been advised that this situation has improved since that time and the evidence suggests that since 2002 affordability with the District has deteriorated by circa 64.9%. Consequently, the proposal for all 70 of the proposed homes to be affordable is fully supported by the Council's Strategic Housing Officer.
32. Therefore, the 49 additional affordable houses provided over and above the 21 which would ordinarily be sought in a development of this size would make a very substantial positive contribution to affordable housing provision in the

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<sup>2</sup> APP/F1040/W/20/3261872

<sup>3</sup> DMPA/2020/1004

- Council area providing housing for people in need now. Moreover, Swadlincote is identified as a preferred area for potential residents by the Strategic Housing Officer, while the scheme includes adaptable and wheelchair accessible units that are, at the time of the report, unavailable for those in need. Additionally, the mix and tenure of houses is considered acceptable.
33. The proposal also contributes areas of public open space and forest planting which would be over and above the amount advised in the SPD as well as play equipment within the development itself. The drainage strategy details the need for a detention basin to manage the excess runoff which would be caused by the proposal. However, the scheme also includes provision for a second basin to manage water and drainage for the wider area, a demonstrable issue that has been detrimental to the area for some time. This would be of further substantial benefit and weigh in favour of the proposal.
34. Moreover, section (d) of Policy INF1 advises that the viability of developments will also be considered when determining the extent and priority of developer contributions in line with the Infrastructure Delivery Plan.
35. In response, the appellant commissioned a viability assessment ('Financial Contributions in the Context of Scheme Viability' - Bridgehouse Property Consultants, March 2020) which concluded that the proposal would not be viable with those requested contributions. The Council's officer report concludes that the District Valuer Service broadly agrees with the assessment of viability in that to provide the full financial contributions requested would render the development unviable on a policy compliant basis. In this case the provision of a scheme providing wholly affordable housing has impacted on the ability of the proposal to provide a commuted sums in respect of infrastructure, which runs contrary to the development plan. This weighs significantly against the proposal.
36. Nevertheless, on a straightforward development plan balance, I am firmly of the view that the provision of the very substantial benefits I have described above are significant material considerations which, in this instance, outweigh the development plan conflict.
37. For the reasons given above I conclude that, on balance, the appeal should be allowed.

### **Conditions**

38. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the national Planning Practice Guidance (PPG), making amendments as necessary to comply with those documents. The appellant has offered comment on these and agreed with most of the conditions, although has advised that two should be deleted as their content is already secured in the UU regarding affordable housing. The Council has not offered comment on this matter, and I concur they would be an unnecessary duplication. As such I have not attached these conditions.
39. Alongside the standard time limit, a condition to clarify the approved plans is required. Conditions regarding materials, doors, windows and refined details regarding features such as gutters, cills etc, land levels, retaining walls, restricting permitted development rights, agreeing landscaping details and a

- tree protection plan are required to protect the character and appearance of the area.
40. Additional details regarding cycle parking, refuse storage and collection, electric vehicle charging points, permitted development rights, construction method statements and estate road layouts are necessary to ensure highway and pedestrian safety is not harmed.
  41. Further information and compliance with details regarding protected species, construction management and ecological management are necessary to ensure biodiversity enhancements are achieved and the ecological value of the site is protected.
  42. To ensure living conditions of prospective future residents are protected, conditions are necessary to provide details and comply with matters including external lighting, working and delivery hours and restricting permitted development rights. Further conditions are required to ensure water management, flood risk, contamination and public safety are managed appropriately, while conditions to secure further details regarding the LEAP and public open spaces within the appeal site are also necessary.

*C McDonagh*

INSPECTOR

### Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless otherwise required pursuant to any conditions hereby attached, or unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:
  - 2494-02 B Location Plan
  - 2494-13 C 2494-13 E POS and Forestry Planting
  - 2494-18 C Boundary Details
  - 2494-20 H House Type A – 2 Bed 4 Person Plans and Elevations
  - 2494-21 F House Type B – 3 Bed 5 Person Plans and Elevations
  - 2494-22 D House Type C – 2 Bed 4 Person Plans and Elevations
  - 2494-30 D House Type D – 3 Bed 5 Person Plans and Elevations
  - 2494-24 F House Type E – 4 Bed 6 Person Plans and Elevations
  - 2494-25 F House Type F – 3 Bed 5 Person (split level) Plans and Elevations
  - 2494-26 H House Type G – 1 Bed 2 Person (flats) Plans and Elevations
  - 2494-28 E House Type J – 4 Bed 7 Person (Cat 3 Bungalow) Plans and Elevations
  - 2494-34 B House Type K – 4 Bed 6 Person (Plots 65 & 66) Plans and Elevations
  - 2494-15 D Site Sections A to E
  - 2494-17 B Site Sections F and G
  - 2494-37 Site Section H
  - 2494- 33 K 2494-33 L Site Layout
  - 2494-36 B Car Parking Space Sizes
3. Prior to their incorporation into the dwellings hereby approved, details and samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. These details shall include specification, colour and material type for each external facing material treatment. Where the details will differ on particular house types, associated site plans shall also be provided to indicate where the different materials for particular house types will be implemented. The development shall include some external facing timber materials within the development as per design guidance in respect of new developments within the National Forest area. The development shall thereafter be constructed using the approved facing materials.
4. Prior to their incorporation into the dwellings hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan. The door, window frame and fascia colours shall be installed in accordance with the approved details.
5. Prior to their incorporation into the dwellings hereby approved, details of the eaves, verges, cills, lintels, chimneys, canopies and porches shall be submitted to and approved in writing by the Local Planning Authority. The

details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills, lintels, chimneys, canopies and porches shall be constructed in accordance with the approved drawings. Timber treatments for some canopies and porches in line with National Forest guidance shall be provided.

6. All verges shall be finished in a mortar finish i.e., wet verges. There shall be no use of dry verge (cloaking tile) systems.
7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
8. Prior to the construction of a car port details of the finish of the inside surface of the walls shall be submitted to and approved in writing by the Local Planning Authority. The approved finish shall then be applied prior to first use of the car port and thereafter maintained as such.
9. Prior to the commencement of the development hereby approved details of the proposed external land levels and retaining walls/features shall be submitted to and approved in writing by the Local Planning Authority. The details shall include relevant specifications, sections and materials details. The approved scheme shall be implemented on site on a prior to first occupation basis and retained thereafter for the lifetime of the development.
10. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. secure cycle parking facility per dwelling (including flats) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing where the secure cycle parking facility will be located and the specification including dimension, material and colour of the secure cycle store. The approved details shall be implemented on site on a prior to first occupation of the dwelling the secure cycle parking would serve and retained thereafter for the lifetime of the development and maintained in good working order.
11. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. electric vehicle charging point (EVCP) per dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each charging point and its specification/model/colour/mounting. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32-amp cable to an appropriate Residual Current Device (RCD). This socket should be located where it can later be changed to a 32amp EVCP. The approved scheme shall be implemented on site on a prior to first occupation of the dwelling that each charging point will serve basis and be retained thereafter for the lifetime of the development and maintained in good working order
12. Prior to the first occupation of the development hereby approved a scheme for bin storage within each plot (3no. bins per dwelling) shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of secure storage within the plot of each dwelling, or in the case of flats the shared amenity space. The approved scheme shall be implemented on site and the space made available on a prior to first occupation of the respective dwelling basis and retained thereafter.

13. Prior to the first occupation of the development hereby approved a scheme for dedicated bin collection points for areas for dwellings not served by adoptable highway shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each collection points and the bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.
14. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.
15. Prior to the commencement (including preparatory works) of the development hereby approved an updated walkover shall be undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.
16. Prior to the commencement of the development hereby approved (including preparatory works) an Invasive Non-Native Species Protocol (INNSP) shall be submitted to and approved in writing by the Local Planning Authority. The INNSP shall detail the timing and method of containment, control and removal of Japanese Knotweed on the site. The measures identified in the INNSP shall be carried out strictly in accordance with the approved scheme.
17. Prior to the commencement of the development hereby approved (including preparatory works) a Construction Environmental Management Plan (CEMP; Biodiversity) shall be 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; identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
  - practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);

- the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- responsible persons and lines of communication; and
- the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

18. Prior to the first occupation of the development hereby approved a five year Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

- Description and evaluation of features to be managed;
- Ecological trends and constraints on site that might influence management;
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives;
- Prescriptions for management actions;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a fifteen-year period);
- Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be implemented in accordance with the approved details.

19. The development shall be carried out in strict accordance with the precautionary measures for roosting and hibernating bats set out in section 5.4.1 of the Ecological Impact Assessment prepared by Ramm Sanderson dated July 2020 Rev 2 8th January 2021 as received by the Local Planning Authority on 8th January 2021.

20. Prior to any construction above foundations level, a scheme of biodiversity enhancement based upon the recommendations in section 7 of the Ecological Impact Assessment (EcIA) prepared by Ramm Sanderson dated July 2020 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of integrated (inbuilt) features within the new buildings for roosting bats and nesting swifts along with the creation of wildflower meadows. The enhancement scheme shall be implemented in accordance with the agreed

details as construction proceeds and completed prior to the first occupation of the development.

21. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive other than in accordance with the approved bird nesting protection scheme.
22. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Public Holidays.
23. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.
24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, and no incidental buildings (except for a single garden shed and/or single greenhouse of maximum size 2.2m x 1.6m each), gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no hard surfacing (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no other means of access to a highway (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
27. 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 C3 use hereby approved shall not be used as houses of multiple occupation C4 use without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

28. Prior to the commencement of the development hereby approved a scheme of dust mitigation measures and for the control of noise emanating from the development during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.
29. Prior to the commencement of the development hereby approved additional investigation to confirm density of sands beneath the site to establish the extent of cohesive deposits plus recommendations for mitigation/remediation as per the recommendations within the Site Investigation Report Revision 0: May 2019 R-SI-11282G-1-0 shall be submitted to and approved in writing by the Local Planning Authority. Any methods of mitigation/ remediation following this investigation shall be adhered to in line with approved details during the construction of the development.
30. Prior to the commencement of the development hereby approved as per the recommendations within the Site Investigation Report R-SI-11282G-1-0 Rev O an investigation executed to the area to the south west to confirm if alluvium is present beneath the proposed plots with recommendations of additional monitoring/investigation works shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation recommended as a result of these investigations shall be implemented on site as per the approved details.
31. Prior to the commencement of the development hereby approved following the alluvium investigation should alluvium be found ground gas monitoring should be carried out to confirm the ground gas regime for the site and a scheme submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation as part of this scheme shall be executed on site in accordance with the approved details.
32. In the event that following the investigations pertaining to the other conditions within this decision notice require mitigation or remediation, a verification report confirming the details and date of the measures installed executed by a relevant professional shall be submitted to and approved in writing by the Local Planning Authority on a prior to occupation basis. The measures thereafter shall be maintained throughout the lifetime of the development.
33. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation

- proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.
34. In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
35. Prior to the commencement of the development hereby approved a Construction Method Statement/Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of space to be provided within the development site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicle with accompanying statement/plans. Details of wheel washing shall also be included in the scheme and 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. The Construction Method Statement/ Management Plan and compound shall be implemented on site in accordance with the approved details and retained free from any impediment to their designated use throughout the construction period of the development.
36. Prior to the commencement of the development hereby approved full construction details of the residential estate roads and footways including layout (generally in accordance with revised application drawings including 11285R-TA04 rev E) including levels, gradients, surfacing and means of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter be constructed in accordance with the approved details unless otherwise agree in writing by the Local Planning Authority.
37. The gradients on the new estate streets, ideally, should not exceed 1:20 and shall never exceed 1:12 at any point along the proposed highway.
38. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 36 above up to and including at least road base level prior to the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. 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,
39. Prior to the commencement of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the drives/accesses/shared drives onto the proposed adopted highway. The

approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

40. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
41. The proposed access driveways to the new estate streets shall be no steeper than 1:20 for first 5 from the nearside highway boundary and never exceed 1:10.
42. Prior to the commencement of the development hereby approved details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.
43. The car port/parking spaces as shown on the approved plans such as '2494-36 B Car Parking Space Sizes' and '2494-33 K 2494-33 L Site Layout' shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority. The parking spaces throughout the development shall be implemented and available for use prior to the first use of the dwelling they are associated with.
44. Prior to the first occupation of the development hereby approved an amended Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.
45. There shall be no gates or barriers within 5m of the highway boundary and any such gates shall open inwards only.
46. Prior to the first occupation of the development hereby approved a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall generally follow the principles as set out on drawings 'Site Layout (Scheme 4) 2494-33 Revision K' 2494-33 Revision L and the 'Landscape Masterplan 1916-PL1-02 Rev D 1916-PL1-02 Rev F'. The landscaping scheme shall include a communal garden area for the flats to the east of the development, at least 1no. fruit trees to each dwelling's external amenity area, bat and bird friendly plants, native species hedgerows and street tree planting in line with the

consultation response received from the National Forest Company. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

47. Prior to the first occupation of the development hereby approved detailed hard and soft landscaping plans including boundary treatments, means of enclosure and gates for the Public Open Space, LEAP and National Forest planting shall be submitted to and approved in writing by the Local Planning Authority. The size of area for the POS, LEAP and National Forest Planting shall follow drawing 'POS and Forestry Planting 2494-13 Rev C' 2494-13 Rev E. The footpaths within the POS, LEAP and National Forest area shall include rolled gravel as per National Forest Company guidance unless otherwise agreed in writing with the Local Planning Authority. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. The boundary treatments shall include a scheme for safety barriers/fencing as appropriate around the LEAP and detention/attenuation basins. The planting within the National Forest area shall include native broadleaved plantation woodland with transplants planted at 2m centres with planting elsewhere providing trees to mitigate those lost as a result of the built development on site and specific details of species, sizes, age etc. provided. The soft landscaping shall also include bat and bird friendly plants and native species hedgerows. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of development, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of development or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period..
48. Prior to the first occupation of the development hereby approved a detailed scheme for the LEAP shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10no. pieces of play equipment, bins, amenity areas e.g., seats, boundary treatments and details of the proposed maintenance and management of the LEAP for the lifetime of the development. The LEAP shall be implemented on site prior to the first occupation of the development in accordance with the approved

details and shall be retained thereafter for the lifetime of the development in good working order.

49. Prior to the first occupation of the development hereby approved a detailed Management and Maintenance Strategy for Public Open Space and National Forest planting areas shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall also cover the management of footpaths and boundary treatments within these areas. The development shall be managed and maintained in accordance with the approved scheme.
50. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve 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.
51. Prior to the commencement of the development hereby approved an updated Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall be based on the information within the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan RSE\_3151\_TPP Rev V2. The development shall be executed in accordance with the approved details.
52. All the dwellings part of the development hereby approved shall be M4(2) accessible and adaptable with the 4no. one bedroom ground floor flats House Type G, 2no. two bedroom bungalows House Type H and 2no. four bedroom dormer bungalows House Type J will be delivered to M4(3) Building Regulations as wheelchair accessible to allow homes to flex and adapt easily to meet ageing and disability needs, unless otherwise first agreed and approved in writing with the Local Planning Authority.
53. Prior to the commencement of the development hereby approved a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with the principles/designs and information outlined within the following shall be submitted to and approved in writing by the Local Planning Authority:
- Flood Risk Assessment Revision C Ref No: R-FRA-11285R-01-C. Dated March 2021 by JPP Consulting Ltd (in particular the Proposed Surface Water Drainage Strategy FRA03 Rev C, Off Site Flooding Report 11185/R/WA/002A dated 12th December 2020 by JPP Consulting Ltd and Flood Risk and Water Management Query Responses 11185-R-WA-003 by JPP Consulting and 'including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team'.
  - and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The Scheme shall include the additional proposed works as stated in Appendix F of Flood Risk Assessment (Revision C Ref R-FRA-112852R-01-C. Dated November 2020) the works comprises the diversion of the land drain

from the existing pond along the cul-de-sac adjacent to 43 Oak Close and to be connected back to the existing 300mm land drain within the footpath of Oak Close (Fig 2 Appendix F of FRA, Ref. FRA-11285R-01-C) and the offsite drainage scheme works.

54. Prior to commencement of the development hereby approved, a scheme detailing how additional surface water run-off from the site will be avoided during the construction phase, shall be submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.
55. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 with associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority on a prior to first use basis.
56. Prior to the commencement of the development hereby approved a scheme for the drainage of foul water from the site including a management and maintenance plan/strategy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the development hereby approved.
57. Prior to the first occupation of the development hereby approved, a Verification Report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed schemes (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
58. 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 window hereby approved serving the following House Types shall be glazed in obscure glass and either non-opening (except in an emergency) or top light opening only and permanently maintained thereafter as such:
- House Type A - ground and first floor side elevation windows
  - House Type B - ground and first floor side elevation windows
  - House Type C - ground and first floor side elevation windows
  - House Type D - first floor side window serving secondary window to Bedroom 1
  - House Type E - first floor side elevation window serving the bathroom
  - House Type F - ground and first floor side elevation windows
  - House Type J - ground floor side window serving the wet room

END OF SCHEDULE