

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

1. Planning Applications

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

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DMPA/2020/0436	1.1	Walton on Trent	Seales	6
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2020/0436](#)

Valid date: 08/07/2020

Applicant: S Lyell

Agent: Anna Meynell

Proposal: Change of use of agricultural land to equestrian land on Land to the rear of Walton Hall SK2117 5882, Coton Road, Walton On Trent, Swadlincote, DE12 8LZ

Ward: Seales

Reason for committee determination

This item is presented to the Committee as Councillor Wheelton is a neighbour and comments have been submitted on Councillor Wheelton's behalf.

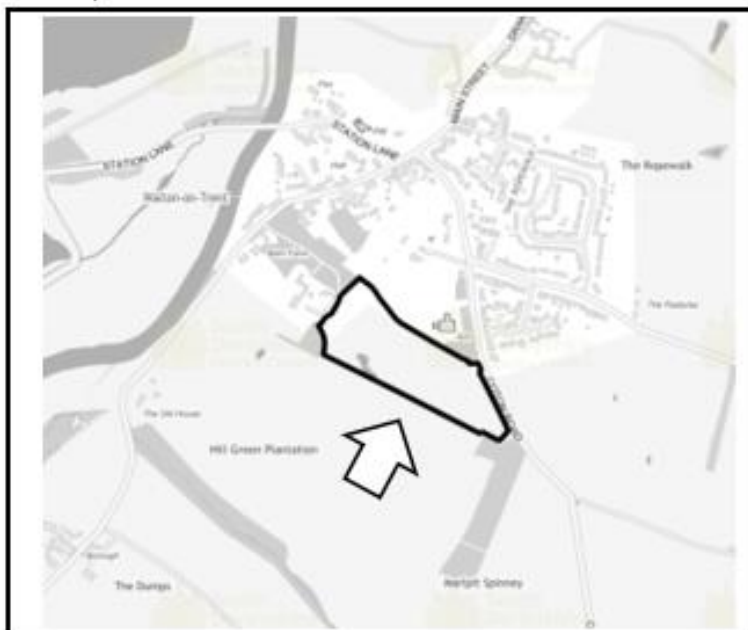
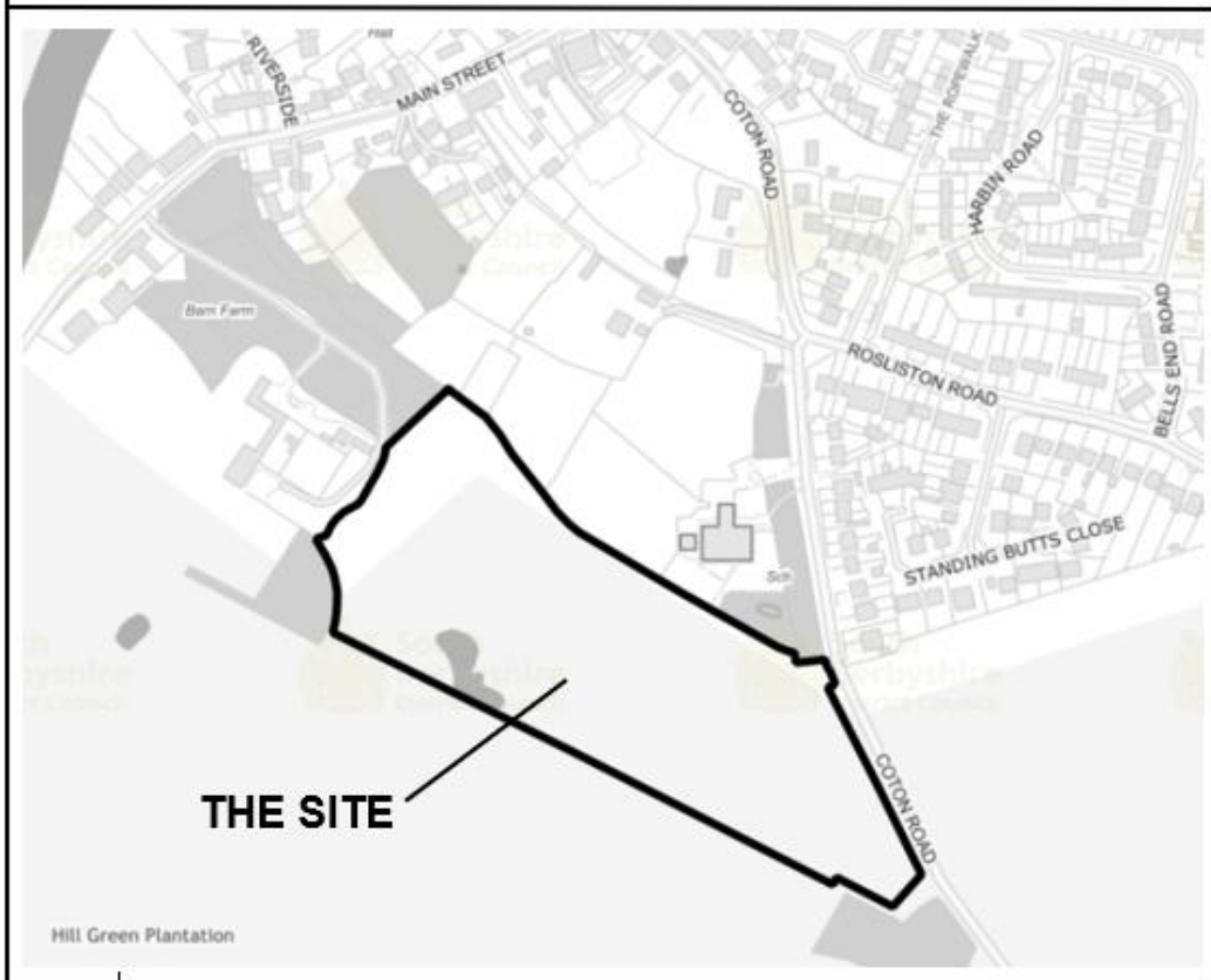
Site Description

The site comprises a large area (4.8ha) of agricultural grassland and parkland trees. The agricultural classification is Grade 3/4. The site edged red is within the same ownership and related to Walton Hall which is Grade II* listed. The site comprises agricultural grassland and parkland trees. The site is generally flat with some variation in topography close to the many veteran trees on site. The site is situated to the south of Walton on Trent settlement boundary and is within the Walton on Trent Conservation Area. The site is also located within part of Walton Hall Local Wildlife Site SD190 for 'wood-pasture and parks' and is currently managed under a Environmental Stewardship Entry Level Scheme grassland management options by a tenant gazier. To the north east of the site is a residential area, north is Walton on Trent primary school and to the north west is more residential dwellings and the River Trent. Land to the north of the site is in equestrian use.

The proposal

The proposed development is to change the use of the land from agricultural to equestrian land. No physical development including erection of stabling, jumps and other equestrian facilities is planned. The land lies adjacent to Walton Hall and is proposed to utilise the existing Grade II* stables for three horses. It is proposed that the change of use to provide space/land for the exercising of horses will encourage the renovation of the stables and bring them back into a use that they were originally intended for. The stables, hall and site in question are within the same ownership. It is proposed that the land would solely be used on a private basis by the owners of the hall for their own horses and would not include commercial activities. The site will be accessed from the existing access off Main Street where the existing parking area for Walton Hall would be used.

DMPA/2020/0436 – Land to the rear of Walton Hall SK2117 5882, Coton Road, Walton On Trent, Swadlincote, DE12 8LZ



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South Derbyshire District Council, LA 100019461,2020

Applicant's supporting information

Design and Access Statement (May 2020) – The applicants consider that the development of the land from agricultural to equestrian use is acceptable as it would be a modest and private endeavour by the owners of the hall for their own horses exercise that would in turn allow for the restoration of the Grade II* stables without the loss of best and most versatile agricultural land. They consider the use of the site for this purpose would complement the equestrian uses to the north of the site and would not involve any other built development with the proposed use including exercising, supplementary feeding and grazing of horses during spring, summer and autumn months. The applicants consider that the development would not detract from the character and appearance of the area, given no other physical development is proposed. The applicants state they would accept a planning condition to restrict the use of horse jumps and associated infrastructure. The applicants state that the proposals would not impact biodiversity, trees, hedgerows or topographical features. The applicants state that the site would be accessed from an existing access off Main Street and with the applicants being the users traffic generation would be incidental to the residential use of Walton Hall.

Heritage Statement (June 2020) – The applicants consider that the development would not detrimentally impact the setting or significance of the designated heritage assets including archaeology due to the lack of operational development in the change of use for equestrianism and as no horse jumps or stabling in the field would be required and the clients would accept a condition to this effect. They consider that the keeping of horses on the land would be traditionally associated with a property such as Walton Hall and as such can be seen as making a positive contribution to the local landscape area.

Management Prescriptions (November 2022) - The applicant has submitted a Management Plan to secure the long term condition of the Local Wildlife Site alongside the change of use to the keeping of horses. They consider that the Management Plan can be secured by a Planning Condition which will serve as a betterment to the ongoing management of the site, which does not benefit from statutory protection currently. The Management Plan includes grazing restrictions depending on the time of year, and also limits the horse grazing to three individual horses. Methods that would damage the integrity of the site such as ploughing or allowing areas of bare ground to comprise more than 5% of the site, are also restricted through the Management Plan.

Tree Survey (June 2020) - A Tree Survey has also been submitted by the applicant, however, this would appear to relate more directly to a separate application (now withdrawn) on the same site (DMPA/2020/0437) relating to the installation of ground source heat pumps, as no works to trees are proposed through this application.

Relevant planning history

(Mostly relating to the adjacent site of Walton Hall)

9/1999/0381 – The felling of 10 Sycamore trees and saplings in the grounds of – no objections
- August 1999

9/2003/0144 – The felling and pruning of trees in the grounds of – May 2003

9/2004/0285 – Use of existing stable building and barn for retail purposes at – refused – May 2004

9/2005/0220 – The pruning of trees at – no objections – May 2005

9/2007/1299 – The replacement of the front door at – approved – January 2008

9/2008/1083 - Work to trees within grounds of – approved – December 2008

9/2013/0940 - The felling of a beech tree at – approved – December 2013

9/2014/0817 - The pruning of an ash and holly tree – approved –October 2014

9/2014/0962 - Listed building consent for replacement of three external doors and one window at – approved – December 2014

9/2017/0680 - The felling and pruning of trees at – no objection to works –August 2017

9/2017/1038 - the pruning of various trees covered by South Derbyshire District Council Tree Preservation Order Number 1 at – granted – November 2017

DMPA/2019/0960 – The opening up of 7 former windows and modification to 1 external door – approved with conditions – October 2019

DMPA/2019/1006 – Listed Building Consent for the opening up of 7 former windows and modification to 1 external door – approved with conditions – October 2019

DMPA/2020/0445 - Reparation/re-building of existing outbuilding associated with main house to form plant room at - approved with conditions - July 2020

DMPA/2020/0525 - Listed Building Consent to repair, rebuild and re-use of existing outbuilding associated with main house to form plant room at – approved with conditions –July 2020

DMPA/2020/0437 - Installation of a ground source heat pump on – withdrawn

DMOT/2022/0083 - Consultation from the Forestry Commission for works to trees at – awaiting decision

DMPA/2022/0412 - 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 - approved with conditions September 2022

Responses to consultations and publicity

Derbyshire Wildlife Trust initially objected to the proposal with concerns in relation to the impact the keeping of horses would have on the condition of the site (including veteran trees and the the sward). However, following the submission of a Management Plan, written under the advice of DWT and the SDDC Biodiversity Officer, DWT have withdrawn their objection providing the specifics of the Management Plan are adhered to.

They state 'On the whole the prescriptions are considered to be acceptable for the management of the Local Wildlife Site. I have a couple of comments set out below. With regard to the timing of cuts it would be desirable to see the date amended as below. This is in line with Natural England and Defra's advice on hay cutting times used for agri-environment agreements. It helps to ensure that any flowering plants are able to flower and set

seed.

- Manage the grassland by grazing with livestock between 1st April and 30th November; or, by cutting and removing field-dried hay after 16th July.

With regard to the removal of deadwood it would be beneficial to retain fallen deadwood or snags wherever possible. This is a valuable habitat for insects, fungi, bats and birds. The amendment below is suggested,

- Standing and fallen deadwood will be retained on site wherever possible. However, any wind-blown trees, or trees which present significant health and safety risks, can be removed from the area covered by these prescriptions.

If the above can be incorporated into a final document and planning permission is subject to a condition for the application of the plan, we have no further objection to the application.'

These requirements were subsequently added to the Management Plan (dated November 2022), to address the request of the Wildlife Trust.

Biodiversity Officer initially objected to the proposals due to the lack of a suitable management plan to maintain the features of the Local Wildlife Site. However, upon receipt of the Management Prescriptions plan dated 17 November 2022, the Biodiversity Officer confirmed that this was acceptable and their objection was removed.

Tree Officer has no objection subject to conditions and informatives covering: posts and markers to be erected during construction to indicate RPA's, Tree Protection as per supporting Method Statement.

Environmental Health Officer has no objections.

Conservation Officer has no objections to the development subject to conditions to ensure brightly coloured artificial jumps etc. are not erected within the site.

Landscape Officer sought a Full Arboricultural Survey, Ecology Survey and specification stating the proposed treatment, cultivation and grass seeding of the park.

Walton on Trent Parish Council has no objections.

Members of the public/neighbours

One letter of objection has been received raising the following comments:

- a) Lack of genuine intention of the land owner to use the land for equestrian purposes - the application is a device to trigger the termination of agricultural tenancy of the land known as the Park, as is following application DMPA/2020/0437 for Ground Source Heat pumps (currently pending). This will result in a substantial impact on the agricultural tenancy and as a result the ongoing viability of the farm business that partially operates from this site as well as on a further 118.03 acres of land.
- b) Around 224 sheep are now farmed/held on the land (previously cattle until three years ago due to TB concerns) due to proximity to nearby barn buildings (Barn Farm) and other farmed land units such as Housefield and Mowfield, which is in line with the management of the land as stated within the LWS, which an equestrian use would not be. To take this land out of agricultural practice/maintenance will truncate the main flow of sheep flock between the other land under the agricultural tenancy will impact that business.
- c) The holding is in a Higher Tier environmental scheme (Natural England/DEFRA/Rural Payments Agency affiliated – a personal not land related agreement) and has been for over 13 years and in the third year of a five year Higher Tier Countryside Stewardship Agreement which commenced on 1st January 2018. If the land is removed from agricultural use this would lead to breach of contract of this agreement and liable for penalties for not maintaining the land

in lines with environmental features and agreement. This would also impact the visual setting of the land in the context of the designated heritage assets, including underground potentially medieval archaeological assets.

d) While SDDC do not have a local list, there is compelling reason that the Park would fall within the definition of an undesignated heritage asset, being both a medieval deer park and featuring on the SHINE register.

e) It would appear that the ownership of Walton Hall and the Park changed some years ago, however the tenant of the land has received no notice that their landlord had changed.

f) The Tenancy agreement includes a landlords covenant of quiet enjoyment, right of access and other limitations for the land and this combined with the environmental schemes would prevent the owners undertaking the change of use or installation of the associated application to install ground source heat pumps.

g) The development will detrimentally impact the long-term environmental schemes which are currently contributing to the maintenance of this medieval and post-medieval piece of land.

h) The development will detrimentally impact a number of ancient and veteran trees on the land which ought to be subject of Tree Preservation Orders and are mentioned within the LWS Designation Assessment.

i) The development will be contrary to local and national planning policy as it would result in detrimental impacts on the Conservation Area and setting of the Grade II* listed building if the application were granted.

j) The management of the land in accordance with the LWS for cattle/sheep grazing and the other practices mentioned are key to maintaining nature conservation, environmental incentives, and tree protection.

k) The land would be unsuitable for horses as they may get colic if they too much grass or if not enough is available this too could impact environmental management of the site.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 The Local Plan Part 1 (LP1) – S1 Sustainable Growth Strategy, S2 Presumption in Favour of Sustainable Development, S3 Environmental Performance, H1 Settlement Hierarchy, SD1 Amenity and Environmental Quality, SD2 Flood Risk, SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure, SD4 Contaminated Land and Mining Legacy Issues, SD5 Minerals Safeguarding, BNE1 Design Excellence, BNE2 Heritage Assets, BNE3 Biodiversity, BNE4 Landscape Character and Local Distinctiveness, INF8 The National Forest

2017 The Local Plan Part 2 (LP2) SDT1 Settlement Boundaries and Development, BNE5 Development in Rural Areas, BNE7 Trees, Hedgerow and Woodland, BNE10 Heritage

The relevant local guidance is:

Trees and Development SPD

Walton-on Trent Conservation Area Statement 2014

The Landscape Character of Derbyshire 2014 – Part 1.10 Mease-Sense Lowlands

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant legislation is:

Town and Country Planning (Development Management Procedure (England) Order) (DMPO)

Other material considerations are:
Walton Hall Local Wildlife Site SD190

Planning considerations

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

- The principle of the development – change of use of the land from agricultural to equestrian;
- Landscape character and quality, biodiversity, and best and most versatile agricultural land;
- Heritage assets, including archaeology;
- Other matters.

Planning assessment

The principle of the development – change of use of the land from agricultural to equestrian:

The most applicable policies to consider are S1, S2, H1 and BNE4 of the LP1 and SDT1 and BNE5 of the LP2 and paragraphs 170. Between them these policies seek to ensure that development in rural areas is limited, with the majority of development directed to sustainable defined settlement boundaries and is appropriate for their setting with regard to local landscape character, the size of the settlement, protecting best and most versatile agricultural land, biodiversity and heritage assets.

H1 of the LP1 defines the site as being within the rural area of Walton on Trent. SDT1 of the LP2 reads that 'Settlement boundaries define the built limits of a settlement. Within settlement boundaries as defined on the policies map and in Appendix A, development will be permitted where it accords with the development plan. Outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5.' The site lies outside of the nearest defined settlement boundary of Walton-on-Trent (north of the site beyond the school). BNE5 of the LP2 states that 'Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

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

The explanation accompanying this policy also allows for facilities essential to rural based activities such as equestrianism and outdoor recreation.

The use of the land for equestrian use would constitute a rural based activity, one which would unlikely be appropriate or able to be facilitated within a settlement. The relationship of the existing stables at Walton Hall and the land in question also appears closely linked in

both character and physical proximity, it would be logical therefore for this to be used for equestrian purposes. It is noted that a parcel of land to the north of the application site is also in equestrian use and therefore this proposal would not be out of keeping with the locality. It is stated by the applicants that the proposed equestrian use would include exercising of horses, supplementary feeding and grazing during spring, summer and autumn months being solely in private not commercial use. It is also argued by the applicants that the grazing of horses would fall into the definition of agriculture. Whilst the grazing element of the proposed equestrian use of the site may be within the realms of agriculture which as a result would not require planning permission, the proposed exercising etc. would constitute a change of use of the land. This proposed change of use, is however considered to be acceptable in principle in relation to Policy BNE5, providing that point v) of the policy can be met, and these matters will be considered in turn below.

Landscape character and quality, biodiversity, and best and most versatile agricultural land

The most applicable policies to consider are S1, S2, S3, SD1, BNE1, BNE3 and BNE4 of the LP1 and BNE5 and BNE7 of the LP2, the Trees and Development SPD, The Landscape Character of Derbyshire 2014 – Part 1.10 Mease-Sense Lowlands and the Walton Hall Local Wildlife SD190 Assessment. Between them these policies and guidance seek to ensure that new development that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: Internationally important sites; nationally important sites such as SSSI's; Sites of Country Importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites); Ancient woodlands, veteran trees and hedgerows and priority habitats and species do not significantly harm or detrimentally impact nature conservation, biodiversity and geodiversity and provide mitigation or enhancement at a scale proportionate to the site/proposed use/development. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

Derbyshire Wildlife Trust and the SDDC Biodiversity Officer both acknowledged in their comments that equestrian use and therefore also horse grazing, would have a different and higher impact to cattle and sheep grazing, due to both the normal patterns of grazing intensity and the way in which the animals graze the land. However, it is considered by both these consultees that these concerns have now been overcome by the submission of the 'Management Prescriptions' Management Plan which places controls on the level of grazing, as well as 'indicators of success' to ensure that the site and species within it are not negatively affected and that the wood pasture and parkland is maintained. The Management Plan also gives specific attention to the veteran trees within the site, as well as the sward itself. Importantly, the Management Plan places restrictions on the number of horses allowed to be kept (and therefore grazed) of up to three, as well as grazing restrictions to allow the land to recover at appropriate times of year.

The site has many veteran trees within it and there are instances of replacement parkland tree planting having taken place, as noted in comments provided by DWT. It is considered that veteran trees, particularly those in a parkland setting, can be important both visually to the character of the area and for invertebrate assemblages especially in deadwood or fallen branches etc. The retention of these trees is key, however, no tree, woodland or hedgerow works are proposed as part of this application. The SDDC Tree Officer has reviewed the proposals and raised no objection to the development subject to suitably worded planning conditions to avoid root protection areas, however these comments appear to relate to the separate planning application DMPA/2020/0437 (withdrawn) for

ground source heat pumps as no machinery is required to be used through this proposal. It is considered subject to the Management Plan being secured by a condition on the application, that the development would comply with policy in terms of potential impact on trees, woodland and hedgerows. The Management Plan also addresses the comments raised by the SDDC Landscape Officer, as the ongoing maintenance of the site and sward can be protected through this.

The site is presently in agricultural use as grazing land for a flock of over 200 sheep. The applicants have stated that the land is classified as Grade 3 and 4 on the DEFRA Land Classification Map. However, it would appear that this site would largely be within Grade 3 land – 'good to moderate' (shaded green), and also areas of Grade 2 land 'very good' (shaded blue) when using the Agricultural Land Classification Map (Natural England 2010). BNE4 of the LP1 seeks that new development should protect soils that are 'Best and Most Versatile' (Grades 1, 2 and 3a in the Agricultural Land Classification) and wherever possible direct development to areas with lower quality soils. Given the Agricultural Land Classification on this site, this element of Policy BNE4 should therefore also be considered.

The Management Plan 'Management Prescriptions' that has been submitted, includes a provision for the continuation of agricultural grazing as set out below;

'Grazing with cattle and sheep is permitted to maintain a specific sward height; The average height of the grass sward (excluding rushes and flowering stems) should be between 5 and 15 cm at the end of the grazing period.'

While it is acknowledged that if permission is granted for the keeping of horses, that the land is in effect, taken out of agricultural use, it would not preclude the land from still being used for agricultural purposes by way of cattle and sheep grazing, in fact this is encouraged by the Management Plan. In addition, it is not considered that by granting planning permission it would result in the land being permanently unavailable for agricultural purposes as the use is considered to be reversible. For these reasons it is not considered that the proposal conflicts with Policy BNE4 which seeks to protect best and most versatile agricultural land.

In terms of landscape character, the keeping of horses does change the use of the land from a purely agricultural use, however, in terms of its overall appearance, the keeping and grazing of up to three horses is not anticipated to change the character of the landscape, as it will retain its parkland character and no built development is proposed. Changes in the sward height are anticipated due to horse grazing, however it is acknowledged that there is currently no statutory restriction on the maintenance and preservation of this site, and that the Management Plan sets out that the sward should be between 5 and 15cm at the end of the grazing period, thus retaining its presence and integrity. It is not considered therefore that the proposed change of use would have a detrimental impact on the landscape character of the site and the integrity of Local Wildlife Site SD190.

Heritage assets, including archaeology

Policy BNE10 explains that development which may affect heritage assets requires appropriate assessment that describes the significance, identified the impact of the development on these assets/significance and provides clear justification for the works.

The Walton on Trent Conservation Area Statement states that 'the entrance to Walton Hall is very understated, and falls between Barn Farm Cottage and a small wooded copse. It has a simple metal estate fence lining the entrance drive with a wrought iron gate and cast-iron posts. The parkland occupies a long, tranche of land stretching from Catton Road to

Coton Road. The landscape parkland to Walton Hall is quite small and self-contained. Another informal entrance appears to have existed onto Coton Road, but this was probably just designed for access and ease of maintenance. The lack of gatepiers or a significant entrance into the Hall does tend to support the sense that this was the house of a well-to-do family, who, like many within this part of the Country, shared the 18th century desire to have a house in a picturesque setting that overlooked the River Trent. The house is imposing from the west bank of the river. It appears quite large, as there is nothing to compare it with, and the giant order of the pilasters do give a heightened sense of its scale. The building is in fact quite small by country house standards. The parkland is also simply planted, with mature trees sitting within the natural contours of the landmass and no obvious landscape devices or re-shaping.'

The site is located in an area with archaeological potential, with a Historic Environment Record suggesting that 'the site is perhaps part of the medieval deer park associated with the old Walton Hall and the prevalence of trees, particularly at the eastern end of the pasture would seem to offer some support to this view' (SDDC Conservation Officer). As the proposal doesn't involve any physical alterations to the site beyond its change of planning use from agriculture to equestrian, there are no objections on archaeological grounds.

The land is also closely related to the Grade II* listed property Walton Hall which it is connected with historically, functionally and physically. The land is also within the setting of Grade II listed Outbuilding and attached Garden Wall to the East of Walton Hall. The Conservation Officer has no objection to the proposal, commenting that the change of use is limited in its scale and nature, and may result in the positive re-use of the stabling block. It is not considered that the proposal would be harmful to the setting of the listed building or the historic character and appearance of the Conservation Area with the site being experienced in context with adjacent land already in equestrian use. It is however recommended by the Conservation Officer that a condition be secured on any permission which restricts artificial and brightly coloured horse paraphernalia such as jumps from being placed on the land which would detract from the setting of the heritage asset and the historic parkland.

Taking into consideration the view of the Conservation Officer, the proposal is not expected to be harmful to the setting of the listed Walton Hall, or the historic character and appearance of the Conservation Area of Walton on Trent. The proposal can therefore be considered to be in accordance with Policy BNE2 of the LP1 and BNE10 of the LP2, as well as national policy and guidance.

It is also noted that the applicant wishes to bring the stables back into use which form part of the stable block of the Walton Hall Grade II* listed building. This application relates only to the change of use of the land edged red as part of this submission and any alterations that would be required to facilitate the stabling of horses within the buildings may require separate Listed Building Consent.

Other matters

A number of comments of objection from Councillor Wheelton have been received which relate to the tenancy of the land, the intention of the applicant, and the existing Higher Level Stewardship Agreement. While these comments are noted, these matters fall outside of the control of the planning framework and cannot be given weight as material considerations. Informatives will be added to any decision to inform the applicant of the need to ensure due procedure is followed in terms of tenancy arrangements and access

rights over the land. The Management Prescriptions that have been submitted and will be secured through a condition to any approval, should also cover the long-term management and preservation of the site.

Conclusion

It is concluded that the proposal would be in accordance with national and local planning policy, providing that the ongoing management of the site is secured through the submitted Management Plan, 'Management Prescriptions' dated 17 November 2022 as a condition, to ensure the preservation of the site in terms of its significance as a Local Wildlife Site, and important historic wood and parkland setting of the Grade II* listed building Walton Hall. It is therefore recommended that the application be approved subject to conditions.

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

Recommendation

Approve subject to the following conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the approved Management Plan 'Management Prescriptions (dated 17 November 2022)' and thereafter maintained in accordance with the aforementioned plan throughout the lifetime of the development.

Reason: In order to safeguard designated and non-designated species and habitats from undue disturbance and impacts, and to retain the character of the landscape.

3. The application site shall only be used for the social and domestic use by the occupiers of the dwelling known as Walton Hall, Coton Road, Walton on Trent, DE12 8LZ and shall not be used for commercial gain in association with any business.

Reason: To safeguard the amenities of nearby occupiers and to preserve the character of the landscape.

4. Prior to the siting of any jumps, chattels and/or paraphernalia associated with equestrian use on the land subject to this permission, details shall first be submitted to the Local Planning Authority and approved in writing. Only jumps, chattels and other paraphernalia approved by this condition shall be kept on the site thereafter, with the remainder of the site kept clear in perpetuity.

Reason: In the interests of the character and appearance of the Conservation Area and the historic setting of the Walton Hall Grade II* listed building.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking

and/or replacing that Order, no gates, walls, fences or other means of enclosure shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and appearance of the Conservation Area and the setting of Walton Hall Grade II* listed building.

Informatives:

- a. The applicant is advised to follow other areas of legislation and give due consideration to existing tenancy arrangements and any existing Higher Tier Countryside Stewardship Agreements, noting that this decision notice relates to planning permission only.

Item No. 1.2

Ref. No. [DMPA/2022/1059](#)

Valid date: 12.10.2022

Applicant: Cameron Homes

Agent: CT Planning

Proposal: Erection of 8 dwellings, two detached garages and associated works, with access from the permitted estate road of permission DMPA/2021/1342 at The Paddock (Cadley Park), land north of Copperas Road, Newhall

Ward: Newhall and Stanton (Unparished)

Reason for committee determination

This application is presented to Committee as the proposal is located outside of the settlement boundary and could be considered to be in conflict with the Local Plan.

Site Description

The site is located to the south of B5353 Park Road and west of Copperas Road, where it terminates and turns into a path. Copperas Road and the path comprise in part the public right of way 98 (FP98) running north south in the area. The site is located in the Newhall and Stanton area of Swadlincote.

The site is approximately 0.35ha in size and roughly square in shape. It comprises a small parcel of unpastured field. The site slopes from the northern corner to the south/southeast corner. The boundary of the site is hedgerow. There is some sporadic tree planting on site.

The site is bound by Copperas Road to the south and ribbon detached residential bungalows along Copperas Road to the east. The rest of the site is abutted by residential development approved via outline application reference 9/2014/0886 for up to 68 dwellings and subsequently reserved matters application DMPA/2021/1342.

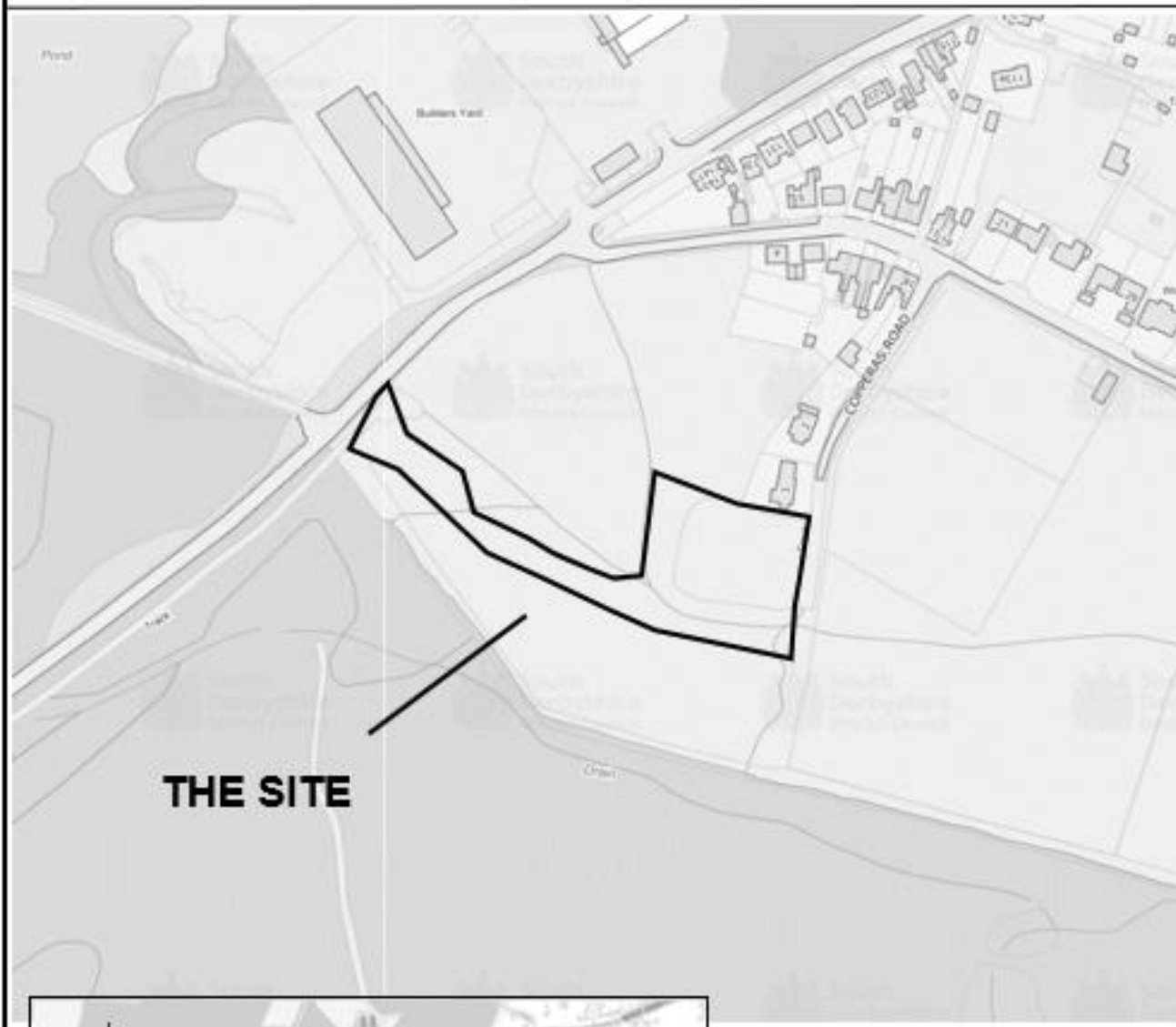
The approved layout provides the point of vehicular access into the site, which has been implemented by way of a new roundabout junction off Woodview Road. Residential development would therefore envelope the site on three sides once the adjacent permission is completed. The immediate surrounds create clear boundaries to the site. Beyond this, there is the urban area of Oversetts providing amenities to the east, the B5353 which is a main vehicular route in the area to the north, land to the south is permitted for a mixed-use development including a new country park and golf course.

The site is located outside of the settlement boundary. The site to the north is allocated for housing under Policy H3 of the Local Plan. The site was not included in the allocation as it was outside the ownership of the promoter at that time.

The land to the immediate east across Copperas Road is identified in the SHELAA as site 184 reference Site D North of William Nadin Way, Woodview Road with an anticipated yield of up to 150 dwellings based on an applied density of 19.6 dwellings.

There are no heritage considerations within or around the site. The site is within Flood Zone 1 and there are no TPO considerations.

DMPA/2022/1059 – The Paddock (Cadley Park), land south of Copperas Road, Newhall



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South Derbyshire District Council, LA 100019451.2020

The Proposal

The application proposes the erection of 8no. dwellings with vehicular access provided by the approved roundabout junction from Park Road and internal road layout (as approved by 9/2014/0886 & DMPA/2021/1342)

The proposal includes 6no. detached dwellings and 2no. semi-detached dwellings. 7no. of the dwellings are two storey and 1no. will be a bungalow.

The proposed mix is as follows:

2x 2 bed

3x 3 bed

3x 4 bed

All dwellings would be open market housing.

Housing Type	Total Proposed	Proposed Split		Total
		Market	Affordable	
2 bedroom	2	2	-	2 (25%)
3 bedroom	3	3	-	3 (37.5%)
4 bedroom	3	3	-	4 (37.5%)
Total	8	8	0	8 (100%)
		100%	0%	

Applicant's Supporting Information

The application has been supported by a range of documents set out and summarised below:

Drawings:

- 2278-01-02 Location Plan
- 2278-02-Topographical Plan
- 2278-03-02-C-Proposed Site Plan
- 2278-11-02-Streetscenes
- 2278-H-2-856-BENSON-AS-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-2-856-BENSON-OP-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
- 2278-H-3-870-BIRCH-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-3-870-BIRCH-SWADLINCOTE-OP PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
- 2278-H-3-978-CARDEW-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS

- 2278-H-4-1421-HATTON (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-4-1421-HATTON-SWADLINCOTE-AS-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
- 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS
- 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-OP PROPOSED ELEVATIONS (HANDED)
- 2278-H-4-1621-BLACKWELL-SWADLINCOTE-AS-A PROPOSED FLOOR PLANS (HANDED)
- 2278-H-4-1621-BLACKWELL-SWADLINCOTE-OP-A PROPOSED FLOOR PLAN
- Proposed Garage Plan
- 19061 External Works
- 19061 PH2 - 138 Proposed Drainage Plan
- Detailed Soft Landscape Proposals – Planning 22-004-P-01 Rev B

Documents:

- 19061-PH2 Drainage Statement
- Ecological Appraisal
- 071767-CUR-00-XX-RP-GE-001-Phase II Ground Investigation Report Swadlincote Plot A
- Tree Survey AIA
- 6084 Planning Statement
- Drainage Area Plan Sheet 1 and 3 Dwg 19061 Rev B
- Ecological Technical Note – Biodiversity Net Gain Calculations Jan 2023
- 11022 VF BNG Matrix Rev A

Summary of Recommendations

The recommendation is to APPROVE the applications subject to conditions.

Publication and Consultation

The application was publicised via a single round of consultation from the 13th October 2022 until the 18th November 2022, given the delay in erecting a site notice.

During this period the application was publicised by letters and a site notice outlining that the proposed development affected a Public Right of Way and was outside a settlement boundary. On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

Comments received can be summarised as follows:

Newhall and Stanton Councillors – No response

Environmental Health Officer – No objection subject to conditions

No objection to the proposals in principle, subject to conditions regarding GA gas mitigation and remediation.

Open Space and Landscape Officer – No response

Tree Officer – No response

Peak and Northern Footpaths – No response

Ramblers Association – Comments

Swadlincote footpath 98 passes along the eastern boundary of the application site. This route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place - please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

Derbyshire County Council (DCC) Highways Authority - No objection subject to conditions
No objection in principle to the application. Confirmation is requested for parking dimensions of a minimum of 2.5 x 5m but with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other obstructions on one side, and add 1m if bounded on both sides. Garages should be an absolute minimum of 3 x 6m (internal dimensions).

Derbyshire County Council Archeaology – No objection

The immediate vicinity of the proposal site was subject to archaeological evaluation in 2021 as part of a previous planning application, with negative results. As the current area represents only a small extension I do not feel that the proposals will have any archaeological impact.

Derbyshire County Council Local Lead Flood Authority (LLFA) - No objection

Thank you for providing additional information to the Lead Local Flood Authority (LLFA) in relation to the above planning application. Apologies for the delay in our response. DMPA/2022/1059, is a minor, therefore we will not make a formal comment, but we approve of the principle of the drainage strategy to discharge into the drainage system of the adjacent development, given that they have accounted for the additional area in the design.

Derbyshire County Council Public Rights of Way – No objection

I can confirm that Swadlincote Public Footpath No. 98 runs adjacent to the proposed development site, along Copperas Road, as shown on the attached plan. Additional access from southern boundary with Copperas Road for pedestrians to link with FP98 is welcomed. FP98 path should remain open, unobstructed and on its legal alignment, and there should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. However, part of footpath 98 is currently fenced off without a temporary closure notice, so the footpath is already obstructed, which risks enforcement action.

Derbyshire NHS CCG – No objection

I can confirm that we will not be requesting a contribution for this development as it falls under our threshold.

Derbyshire Wildlife Trust (DWT) – No objection subject to conditions

DWT have been consulted several times after the applicant provided further information as requested.

The site is dominated by semi-improved neutral grassland with small areas of tall herb or ruderal vegetation. Hedgerows are present bordering the site. The likelihood of protected species being present at the site is probably lower due to the small size of the site and the adjacent land-use as well as the distance from some of the breeding ponds or areas of more optimal habitat for reptiles and amphibians and ground nesting birds.

Following my last letter (5th January 2023) I have received updated information relating to the biodiversity impacts at the above site including the following:

- *Ecology Technical Note Biodiversity Net Gain Calculations prepared by FPCR January 2023*

- *Biodiversity Metric calculation v3.1 (11022 VF Rev A)*

Losses of existing habitats and the proposals for habitats post development have now been quantified within the metric and indicate that a gain can be achieved for both habitats and hedgerows.

Previously the habitats proposed above had not been clearly shown on a plan, but one has now been provided (Detailed Soft Landscaping Proposals 23-004-P-01B) and this now addresses my earlier concerns.

The information submitted indicates that a measurable net gain for biodiversity can be achieved in line with Policy BNE3 and the NPPF. Conditions to be attached relating to CEMP, LEMP, bird nesting and lighting.

National Forest Company (NFC) – Comments

Consideration has been given to the wider site's history and the size of the current application site, and it is not considered that the proposal results in a requirement for dedicated National Forest planting.

Public Responses

The application has received no objection and 1 public response over the period of consultation which raised the following points:

- a) Access should be from the permitted estate road
- b) Impact on social infrastructure

Relevant planning history

The site is not subject to any public planning history.

The adjacent site to the north and west allocated and permitted for housing development has the following history:

9/2014/0886 - Outline application (all matters except for access to be reserved) for the residential development for up to 68 dwellings together with associated highway works, public open space, landscaping, associated drainage infrastructure and creation of pedestrian and cycle ways - Approved 12/07/19

DMPA/2021/1342 - Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. 9/2014/0886 (residential development for up to 68 dwellings together with associated highway works, public open space, landscaping, associated drainage infrastructure and creation of pedestrian and cycle ways) – Approved 13/06/22

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act, 2004 requires the determination of this application to be made in accordance with the development plan, unless material considerations indicate otherwise.

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues),

BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF7 (Green Infrastructure)

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), and BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

South Derbyshire Design Guide (2017)

South Derbyshire Housing Position Paper (2020)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- Principle of the development
- Layout and Design;
- Highways and Access;
- Ecology, Biodiversity and Trees;
- Drainage; and
- Other Matters;

Planning Assessment

The Principle of Development

The site is located outside to the defined settlement boundary, however it is enclosed by such on three sides. Furthermore, to the north and east the land is allocated for housing under Policy H3 of the Local Plan, which has been capitalised by the permissions set out above. The site was not included in the allocation as it is understood to have been outside the ownership of the promoter at that time.

Policy H1 of the Part 1 Local Plan sets out the settlement hierarchy which distributes new development outside of the allocations and settlement boundaries. Urban areas, including areas adjacent to Derby, are at the top of the hierarchy. Outside the urban areas, sites adjacent to their boundary will be allowed as an exception or cross subsidy site as long as they are not greater than 25 dwellings.

Policy SDT1 reflects this approach setting out that outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5. Policy BNE5 manages development in rural areas and sets out several criteria to assess such proposals.

It is accepted that the site is located outside the settlement boundary however this is not necessarily harmful in and of itself, and this is the reason why there is a policy framework with various considerations seeking to manage such. The fact that SDDC can evidence a 5-year housing supply is in itself not sufficient to dismiss residential development outside of

allocations and settlement boundaries. Indeed, Policy H1 would not allow for exception sites if the settlement boundary was definitive; applications should be assessed on their merits.

On review of BNE5 it states:

Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

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

It is not considered that the site which accommodates 8 dwellings is a small gap and the surrounds do not reflect a small group of housing as per BNE5. However, it is considered that the main objective of policies H1, SDT1 and BNE5 is to spatially focus development across the district in areas most sustainable for it and resist urban sprawl into the countryside landscape.

In this instance, this is residential development of 8 units. The 8 units are located adjacent to the settlement of Swadlincote which is an Urban Area and a main focus of services and amenities in SDDC. There have been no objections from social infrastructure providers or highways. On this basis, the site is considered sustainable and capable of accommodating 8 units.

In terms of the site, it is considered a small isolated field in uncultivated agricultural use. It has no further policy designations regarding its value in terms of landscape or biodiversity. There are no heritage considerations. The site is well defined and bound physically by built development and a defined boundary of Copperas Road. The wider landscape is permitted for a country park and golf course and immediately across Copperas Road, the land has been promoted via the SHELAA and it is considered deliverable over the next 6-10 years. On this basis, the impact to the landscape of the countryside and any visual intrusion is considered limited.

Overall, for the reasons set out above, it is considered that the site is spatially sustainable to accommodate 8 dwellings. It would not give rise to unacceptable impacts on local services and follows the spatial objectives of policies H1 and SDT1, even more so when considering wider consented development. The site is well defined and permitted and existing development limits any significant visual intrusion from its development. Biodiversity is considered below and the site is limited in terms of agricultural use by its size and context. Therefore, the proposed development is considered in line with the spatial objections of BNE5, albeit not the specific text.

On this basis, the principle of residential development is considered acceptable in this instance.

Layout and Design

The layout and design follow the consented development to the north. The proposed layout extends along the existing internal roads and provides linear banks of dwellings that follow the consented layout and existing dwellings along Copperas Road. The site is bound by the

country park on its eastern boundary. Where housing is positioned alongside this space, it is either outward facing or dual aspect. The layout of the proposed housing is considered to be acceptable and appropriate for the site.

The range of house designs are limited to those already used across the main development to ensure a coherent design across the site. The material palette reflects that consented which was influenced by the more traditional houses which can be found in the wider area, repeating them in what is a relatively simple form being of generally two storey scale, with pitched roofs and with brick/render and tile construction. The dwelling adjacent to Copperas Road are bungalows to reflect the adjacent scale. In light of this it is considered that the proposed dwellings are of an acceptable design and appearance.

It is considered that the density of the proposal would not adversely impact upon the character or appearance of the surrounding area, when considered against the development to the north and that used to inform the SHELAA.

In terms of residential amenity, the proposed layout respects the existing residential properties adjacent to the site. The distance between plot 76 and 3 Copperas Road is just under 7m however it is also worth noting that there is a retaining wall between the site and them as they are approximately 2m above the site in floor level. Given this context this is considered to ensure that adjacent development would not be overbearing on the existing residents in compliance with Local Plan Policy BNE1. The proposed layout generally accords with the standards set out in the council's adopted Design SPD.

Overall, it is considered that the proposal is in line with policy BNE1 and delivers a high quality design creating satisfactory living environments for the future occupiers of the proposed dwellings and not unduly impact existing residential development.

Highways and Access

The most applicable policies to consider are S1, S2, S6, H19, BNE1, INF1 and INF2 of the LP1 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects.

The provision of the vehicular access from a new roundabout junction on Park Road was considered when outline permission was granted and has, therefore, already been accepted as appropriate. The layout ties into this spine road and no issues have been raised in terms of capacity. Evidence has been provided to confirm the permitted estate road is acceptable for adoption. The shared drives are at their longest 36m. Under current building regulations residents can drag their bins 30m from their dwelling and refuse collectors / waste lorries need to be within 25m of their collection point. Bin collection points which provide space on collection days to meet these requirements can be provided and controlled by condition. No tracking for these shared drives is necessary and bin and emergency access is sufficient on the adoptable road.

Off-street parking is provided on plot and these arrangements are considered to be acceptable with dimensions being conditioned. The proposed layout provides pedestrian links into and out of the wider site on its west (Park Road), north (Woodview Road) and south (country park) in locations approved by the adjacent outline approval, addressing points raised by the DDC PROW officer. There are bus services on Park Road within proximity to the site.

The development will not impact the alignment or access to FP98, and conditions will be attached to ensure this remains during construction and operation.

Overall, the proposal is considered to be acceptable in highway safety terms and the proposed development will provide a well-connected scheme both internally and to external points by a number of methods. On this basis, the application is acceptable in terms of access and its impact on highways.

Biodiversity, Ecology and Trees

Local Plan Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible. Policy BNE7 manages trees, woodland and hedgerows. Where new planting is proposed on site these will be supported and the main concern is to ensure suitable tree species.

The site is dominated by semi-improved neutral grassland with small areas of tall herb or ruderal vegetation. Hedgerows are present bordering the site. The likelihood of protected species being present at the site is probably lower due to the small size of the site and the adjacent land-use as well as the distance from some of the breeding ponds or areas of more optimal habitat for reptiles and amphibians and ground nesting birds.

The application was supported by an Primary Ecological Assessment, aboricultural impact assessment and update BNG matrix and subsequent landscaping plan Detailed Soft Landscaping Proposals 23-004-P-01B) capturing the areas proposed to secure a BNG. Following the updated information, losses of existing habitats and the proposals for habitats post development have now been quantified within the metric and indicate that a gain can be achieved for both habitats and hedgerows. The existing habitat has been assessed as species poor 'modified grassland' in poor condition together with some smaller areas of vacant / derelict land / bare ground habitat. Habitats that will be created as part of the development include vegetated gardens, flowering lawns (other neutral grassland in the metric), urban trees and introduced shrubs. Overall, the metric calculation indicates a small net gain for both habitats and hedgerows at the site. Part of this gain results from the creation of an area of other neutral grassland (using a flowering lawn species mix) of 0.05 ha (22.36m x 22.36m). The predicted gains in habitat have increased from 0.79 habitat units to 0.83 and this is now 14.7% above the baseline value. For hedgerows there is a slight decrease, but there is still a net gain overall of 17.69% above the baseline value.

Derbyshire Wildlife Trust raise no objection to the application subject to conditions which will be attached.

On this basis, with regards to BNG the proposal accords with the Environment Act, objectives of the NPPF and policies BNE3, BNE7 and INF 7 of the LP1.

Drainage

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1.

A FRA and drainage design has been submitted. The drainage for this site is proposed to drain into the drainage scheme for DMPA/2021/1342, which in turn drains into the attenuation ponds which are the subject of DMOT/2022/0873. The surface water would therefore be managed via an attenuation ponds and swales located off site. Derbyshire County as Local Lead Flood Authority have been consulted and raise no objections the proposal subject to conditions which will be attached.

The drainage infrastructure will need to be in place before the occupation of this site and conditions will be added to ensure this.

Overall, in terms of flood risk, water management and drainage subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

Other Matters

EHOs have sought conditions and these should be attached to any planning permission to retain suitable control over such matters of land contamination.

During the determination of the adjacent application the Coal Authority stated that other than the potential surface extraction features at the site which would be a matter for the Building Regulations process to address and there are no coal mining legacy features to dictate any proposed development layout. On this basis, the same standing advice should be added as an informative to any planning permission.

No developer contributions have been sought in this instance due to the scale of the proposals.

Conclusion & Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this is considered to comprise SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). This is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The site sits outside of the settlement boundary, however, for the reasons set out above, given the location and context of the site it is considered to be spatially sustainable to acceptably accommodate the proposed 8 dwellings, and it will not give rise to unacceptable impacts to the countryside. The proposed layout demonstrates that the sites has been considered holistically with other development and the increased housing is considered to be a benefit as it will help SDDC meet its housing targets and maintain a 5-year housing supply.

Technical matters of access, highways and drainage have been assessed and no objections have been raised subject to conditions which will be added. Furthermore, the application has not given rise to any objections from public consultation.

For these reasons, on balance, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG.

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.

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

Equality Implications

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

- a) GRANT permission subject to the conditions
- b) GRANT delegated authority to the Head of Planning and Strategic Housing to agree the final wording of the conditions as substantially set out below, in liaison with the Chair of the Planning Committee

Standard Conditions

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

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

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

Drawings:

- 2278-01-02 Location Plan
- 2278-02-Topographical Plan
- 2278-03-02-C-Proposed Site Plan
- 2278-11-02-Streetscenes
- 2278-H-2-856-BENSON-AS-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-2-856-BENSON-OP-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
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- 2278-H-3-978-CARDEW-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-4-1421-HATTON (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
- 2278-H-4-1421-HATTON-SWADLINCOTE-AS-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
- 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS
- 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-OP PROPOSED ELEVATIONS (HANDED)
- 2278-H-4-1621-BLACKWELL-SWADLINCOTE-AS-A PROPOSED FLOOR PLANS (HANDED)
- 2278-H-4-1621-BLACKWELL-SWADLINCOTE-OP-A PROPOSED FLOOR PLAN

- Proposed Garage Plan
- 19061 External Works
- 19061 PH2 - 138 Proposed Drainage Plan
- Detailed Soft Landscape Proposals – Planning 22-004-P-01 Rev B

Documents:

- 19061-PH2 Drainage Statement
- Ecological Appraisal
- 071767-CUR-00-XX-RP-GE-001-Phase II Ground Investigation Report Swadlincote Plot A
- Tree Survey AIA
- 6084 Planning Statement
- Drainage Area Plan Sheet 1 and 3 Dwg 19061 Rev B
- Ecological Technical Note – Biodiversity Net Gain Calculations Jan 2023
- 11022 VF BNG Matrix Rev A

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

Pre-Commencement

3. Before the commencement of the development hereby approved:
 - a) A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.
 - b) The contaminated land assessment shall include a desk-study with details of the history of the site use including:
 - the likely presence of potentially hazardous materials and substances,
 - their likely nature, extent and scale,
 - whether or not they originated from the site,
 - a conceptual model of pollutant-receptor linkages,
 - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
 - details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

4. Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by

removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

5. All construction shall be undertaken in compliance with the section 6 of the Tree Survey and Arboricultural Impact Assessment HTL17280.A. Any variations to the details of the Section 6 must only be undertaken after the proposed variations have been agreed in writing by the LPA.

Reason: To ensure no unacceptable impacts on protected and retained trees and hedgerows inline with Policy BNE4 and INF2 of the Local Plan.

6. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with:
 - a. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

7. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance and to obtain a full understanding of the springs within the site and any associated mitigation requirements."

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

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

And to ensure that development will be safe from flood risk including from groundwater and natural springs.

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

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

9. No development shall occur until the accesses for construction purposes have been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall also include appropriate visibility sightlines and measures for warning other highway users of construction traffic entering or emerging from the site access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use, and subsequently removed and the adopted highway made good after the construction has ceased.

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

10. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.
The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors;
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate;
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays; There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.
- v) Details of all plant and machinery to be used during preparatory and construction stage, including an inventory of all Non-road Mobile Machinery (NRMM);
- vi) Details of any further Unexploded Ordnance Surveys;
- vii) Details of community engagement arrangements and complaints procedure;
- viii) Details of a acoustic hoarding on boundary of site;
- ix) Details of mitigation measures any species identified on site;

- x) Details for avoiding vegetation clearance during the bird nesting season;
- xi) A temporary drainage strategy and performance specification to control surface water runoff and Pollution Prevention Plan (in accordance with Environment Agency guidance);
- xii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- xiii) Details of noise, dust and air quality monitoring and compliance arrangements, including provision for monthly attendance at the Parish council meeting;
- xiv) Details of measures to remove/prevent re-colonisation of non-native species;
- xv) The appointment of an Ecological Clerk of Works to oversee the works and approved monitoring and compliance arrangements;
- xviii) Access and protection measures around the construction site for pedestrians, cyclists and other road users;
- xiv) Use of protective fences, exclusion barriers and warning signs.
- xv) The location and timing of sensitive works to avoid harm to biodiversity features;
- xvi) The times during construction when specialist ecologists need to be present on site to oversee works;
- xvii) any proposed temporary traffic management;
- xviii) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control;
- xix) storage of plant and materials;
- xx) Risk assessment of potentially damaging construction activities;
- xxi) Identification of "biodiversity protection zones";
- xxii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction;
- xxiii) The location and timing of sensitive works to avoid harm to biodiversity features; and
- xiv) The times during construction when specialist ecologists need to be present on site to oversee works.

The Proposed Development shall only be carried out in accordance with an approved CEMP.

Reason: To safeguard residential amenity, to ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and protect areas of nature conservation interest.

Prior to completion / standalone trigger

11. Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use.
Notwithstanding the above the dimensions should be as follows:
External parking - minimum of 2.5 x 5m but with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other obstructions on one side, and add 1m if bounded on both sides.
Garages - minimum of 3 x 6m (internal dimensions).

Reason: To ensure suitable provision of parking, residential amenity and inline with SDDC Design Supplementary Planning Document

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

Reason: To ensure suitable provision of parking, residential amenity and inline with SDDC Design Supplementary Planning Document

13. No dwelling hereby approved shall be occupied until:

a) The approved remediation works required by conditions 3 and 4 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 1b to 2 above and satisfy 3a above.

c) Upon completion of the remediation works required by 2 and 3a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.

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

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

15. Notwithstanding the submitted details, prior to the construction of a boundary wall, fence or gate, further details of the position, appearance and materials of those features including a timetable for their provision, 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 and timetable.

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

16. Notwithstanding the submitted details, prior to their provision further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:
- (a) string courses, eaves, verges, corbelling, chimneys, and rainwater goods (including their method of fixing); and
 - (b) all retaining structures, including their materials.

The development shall be implemented incorporating the approved details of the building elements which shall be maintained as approved throughout the lifetime of the development.

Reason: To ensure a satisfactory standard of external appearance in the interest of the visual amenity and local distinctiveness

17. No construction above foundations level shall commence until a scheme for the creation of suitable nesting sites for swallows along with a timetable for the provision of such measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure no unacceptable impacts on wildlife and provide suitable habitats in the interests of nature conservation.

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

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

19. Prior to the installation of any lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: To safeguard residential amenity, ensure no unacceptable impacts on wildlife and protect areas in the interests of nature conservation.

20. Prior to completion of the development, 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 scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

21. Prior to the completion of the development a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of on-site and off-site habitats and should combine both the ecology and landscape disciplines. It shall be suitable to provide to the management body responsible for the site and shall include the following: -
- a) Description and evaluation of features to be created and managed including areas of wildflower grassland, flowering lawns, trees and shrubs.
 - b) Locations of bat boxes and 14 integrated swift bricks in line with British Standard BS 42021:2022
 - c) Details of hedgehog connectivity gaps including a plan showing locations - (gaps 130 mm x 130 mm and/or railings and/or hedgerows).
 - d) Aims and objectives of on-site management.
 - e) Ecological trends and constraints on site that might influence management.
 - f) Appropriate management methods and practices to achieve aims and objectives.
 - g) Prescriptions for management actions.
 - h) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
 - i) Details of the body or organization responsible for implementation of the plan.
 - j) Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30-years post completion.
- The land used as to secure the Biodiversity Net Gain shall be held for that use only in perpetuity/for the lifetime of the development.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

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

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

Compliance

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

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

23. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: To ensure no unacceptable impacts on wildlife and protect areas in the interests of nature conservation.

24. Prior to the completion of development including preparatory works the details of any fencing (including temporary) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

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

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

26. Notwithstanding the submitted drawings, 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, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interest of highway safety and safeguarding residential amenity

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 garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

28. If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local

Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants.

Informatives:

Highways

- a. *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 recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
- d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk*
- e. *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.*

- f. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.*
- g. *The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*

Floodrisk

A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.

C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure*
- A safe point of extraction*
- How users can safely evacuate the site upon receipt of a flood warning*
- The areas of responsibility for those participating in the plan*
- The procedures for implementing the plan*
- How users will be made aware of flood risk*
- How users will be made aware of flood resilience*
- Who will be responsible for the update of the flood evacuation plan*

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.*
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- Drawing details including sizes and material.*
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*
- Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

Coal Authority

The applicant is advised that under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Item No. 1.3

Ref. No. [DMPA/2022/1360](#)

Valid date: 07/10/2022

Applicant: Chris Worman

Proposal: **Advertisement consent for the display of signage at Swadlincote Woodlands Country Park, Derby Road, Swadlincote**

Ward: Swadlincote

Reason for committee determination

This application is presented to Committee as the council is the applicant.

Site Description

Swadlincote Woodlands is a former landfill and open cast site in the urban area of Swadlincote. There are several pedestrian access points into the site, with vehicular access being from Derby Road (A514) and the site being bisected by Frank Bodicote Way. The whole park is approximately 80 acres in area with a number of facilities for outdoor play and recreation including picnic and play areas. Within the National Forest, there is significant tree cover and off-road path ways that cross and form a number of links and routes.

The proposal

The relates to five non-illuminated timber 'ladder' style boards advertising the location of Swadlincote Woodlands Local Nature Reserve for visitors at primary access points and provide visitor information, including facilities, bylaws and car park opening times. There are two larger signs proposed at the entrance on Derby Road and three smaller signs located within the car park and pedestrian entrances to the park. There is existing signage up in four of the five proposed locations, which will be replaced with the proposals.

Applicant's supporting information

The application is supported by an application form; plans showing the proposed signage; and the location of the advertisement boards.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

There were no representations received from neighbours as a result of publicity undertaken.

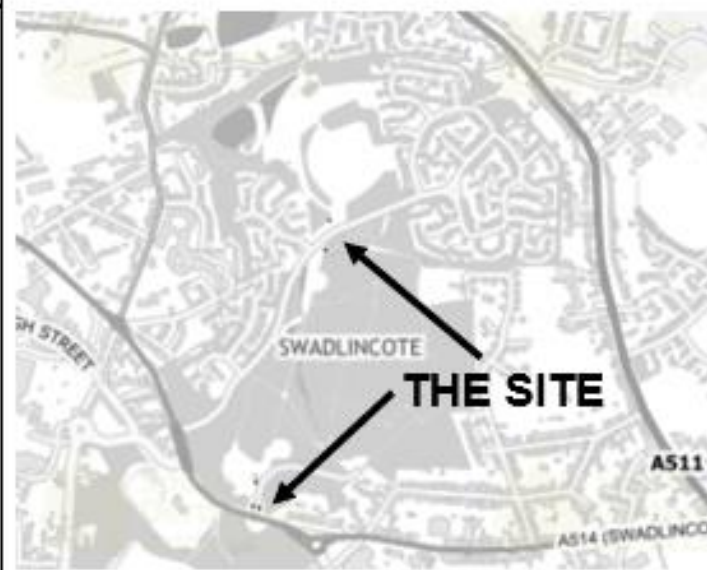
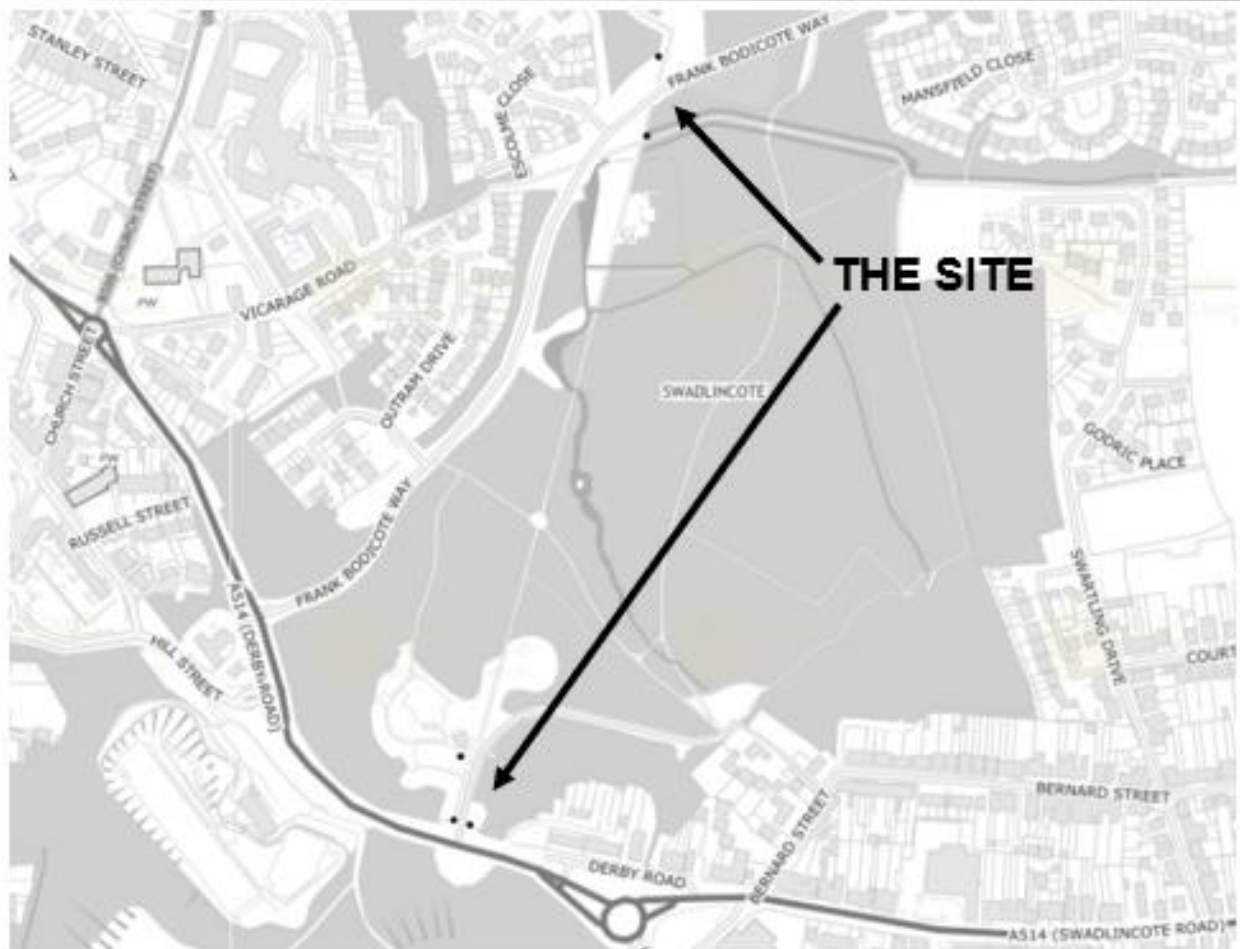
Relevant policy, guidance and/or legislation

The relevant local policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE1 (Design Excellence).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution).

DMPA/2022/1360 – Swadlincote Woodlands Country Park, Derby Road, Swadlincote



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South Derbyshire District Council, LA 100019461.2020

The relevant national policy and guidance is:
National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).

The relevant local guidance is:
South Derbyshire Design Guide Supplementary Planning Document.
Display of Advertisements Supplementary Planning Guidance.

The relevant legislation is:
The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Planning considerations

Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 783) (the Regulations) limits the exercise of the powers of control of advertisements solely to the interests of amenity (including aural and visual) and public safety, and these matters are elaborated in Regulation 3(2).

Regulation 3(3) provides that the Local Planning Authority in taking account of factors relevant to amenity may disregard any advertisement that is being displayed. Whereas, Regulation 4(3) permits the Local Planning Authority to have regard to any material change of circumstances likely to occur within the period for which the consent is requested.

Planning assessment

The relates to five non-illuminated timber 'ladder' style boards advertising the location of Swadlincote Woodlands Local Nature Reserve for visitors at primary access points and provide visitor information, including facilities, bylaws and car park opening times. There are two larger signs proposed at the entrance on Derby Road and three smaller signs located within the car park and pedestrian entrances to the park. There is existing signage up in four of the five proposed locations, which will be replaced with the proposals.

Regulation 3(2)(a) of the Regulations provides that the determination of the suitability of a site for the display of advertisements, should have regard to the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. There is an acceptance that outdoor advertising is essential in a free and diverse economy, subject to the nature of the proposal and context.

The proposal relates directly to the application site, with a clear purpose of signifying entry to a rural location that would otherwise be geographically unidentifiable. Natural materials have been selected to take into account the rural context. The proposed advertisement is not considered to be at odds with the surrounding character and appearance of the area and would not affect visual amenity of the streetscene.

Public safety under the Regulations is generally referenced in respect of the proposals impact upon the safety of pedestrians, drivers and any other uses of the highway. The Planning Practice Guidance (the PPG) at paragraph 068 (Reference ID: 18b-068-20140306) sets out the main types of advertisement which may cause danger to road users.

The proposed signage is considered to benefit highways safety, through the clear labelling of a rural destination, where visitors may not be familiar with the local area. As such, it is not considered that there would be any negative implications for public safety. Highways have not raised any objections to the scheme, thus confirming this stance.

Overall, the proposed signage is considered to have an acceptable level of visual presence,

clearly defining the location and available facilities at the Nature Reserve and would not result in highway safety issues or substantial change to the character and appearance of the area.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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

Recommendation

Approve subject to the following conditions.

1. The development hereby permitted shall be carried out in accordance with the submitted plans, particulars and drawings validated on 5th October 2022; unless as otherwise required by condition attached to the 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.

Informatives:

- b. This consent is also subject to the standard conditions as set out in The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended). Compliance with the following is necessary: (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission; (ii) No advertisement shall be sited or displayed so as to: (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle. (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site; (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public; and (v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Item No. 1.4

Ref. No. DMPA/2020/0127

Valid date: 01/06/2020

Applicant: C/O Agent

Agent: Planning JJM

Proposal: Erection of 14no. dwellinghouses, with associated parking, internal road and amenity space, along with the creation of access at Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ

Ward: Church Gresley Ward (Unparished)

Reason for committee determination

This item is presented to Committee as the application is a major and is subject to more than 4 objections.

Site Description

The site is located to the west of Cadley Hill Road, where it runs from the junction with Swadlincote Lane and Heathcote Road, and the junction with A514. The site is located in the Church Gresley ward area of Swadlincote.

The site is approximately of 0.70hectares in size and roughly L shaped. It comprises a vacant site, previously used for dog kennels. The site is relatively flat. The site is bound to the east by Cadley Hill Road which provides vehicular access to the site. Cadley Hill Road has a speed limit of 40mph. To the north the site is bound by large detached residential ribbon development along Cadley Hill Road. To the west the site is bound by an established belt of trees, beyond which lies a large industrial estate of multiple commercial buildings and operations. Keystone Lintels recently was permitted to operate 24 hours a day. To the south, again the site is bound by large detached residential ribbon development along Cadley Hill Road and Woodlands Close leading off Cadley Hill.

There is no planting on site, but to the west and south the boundary is a hedgerow and trees. The site is located within Flood Zone 1. There are no heritage considerations within or around the site. The site is located in the designated area for the National Forest. The hedgerow along the boundary with Cadley Hill Road is a noted wildlife verge, albeit intermittent. The hedgerow and trees to the south of the site are under a TPO designation.

The land to the west/south west of the site is allocated for employment development under Policy E4 Part 1.

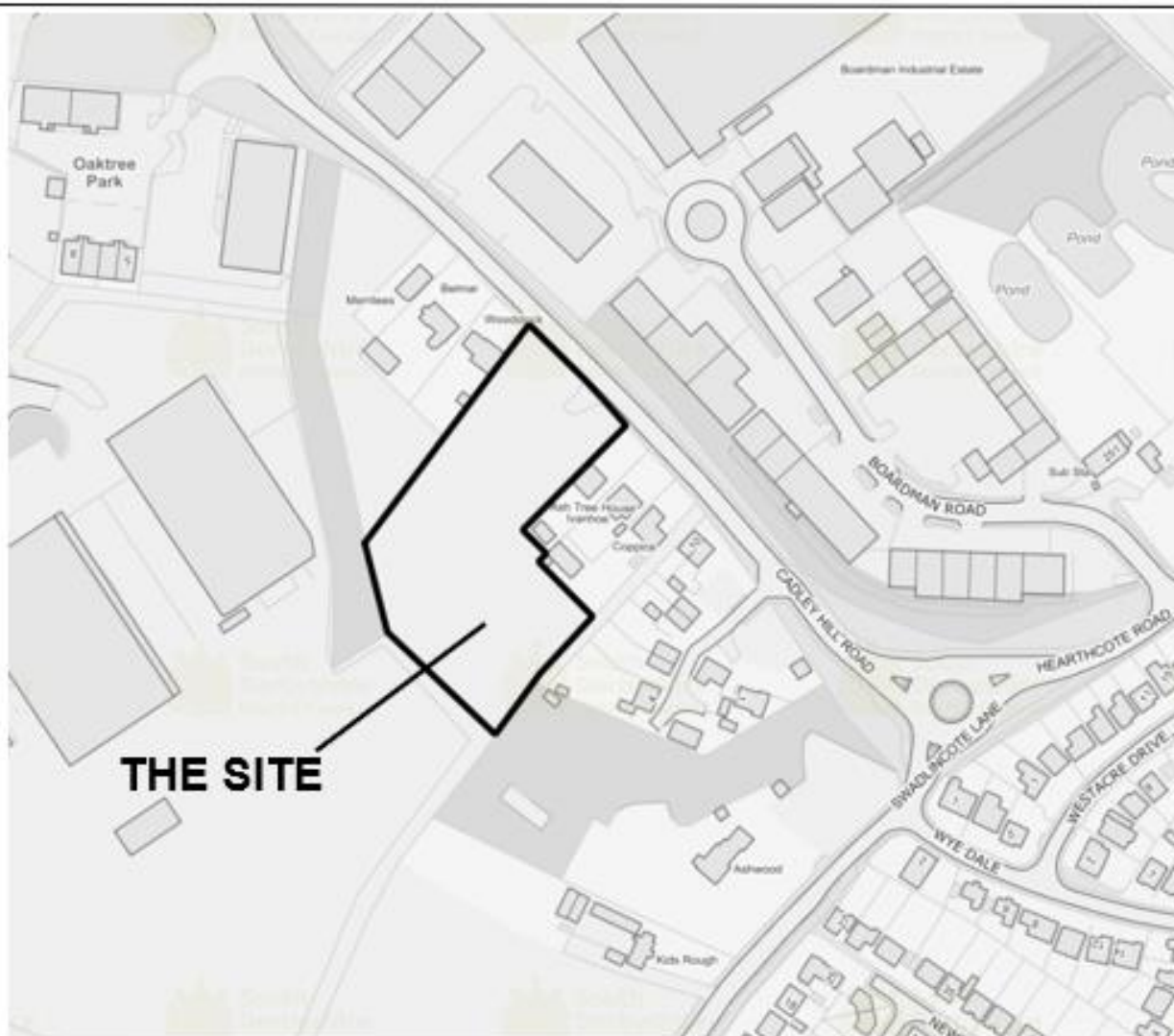
The Proposal

The application seeks permission for the erection of 14no. dwellings with vehicular access from Cadley Hill Road.

The proposal includes 8.no 4 bed + dwellings and 6.no 3 bed dwellings. All dwellings would be open market housing.

The dwellings are arranged off a single estate road the curves around the L shaped site. The proposal will provide x2 dwellings fronting on to Cadley Hill Road inline with the existing ribbon

DMPA/2020/0127 - Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ



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South Derbyshire District Council, LA 100019461.2020

development. Dwellings would be two storeys in height and detached in plots with front and rear gardens and off street parking. The materials palette is red brick with a mixture of grey and brown roof tiles. The houses are built to nationally prescribed space standards and are capable of meeting Part M4(1) requirements for access.

Applicant's Supporting Information

The application has been supported by a range of documents set out and summarised below:

Drawings:

- 1920 - PL- 001 Site Location Plan
- 1920 - PL - 005 Existing Site Plan
- 1920 - PL - 050 Proposed Site Plan Rev F
- Type A Housetype Elevations 1920-PL-A200 Rev A
- Type A Housetype Floor Plan 1920-PL-A100 Rev A
- Type B Housetype Floor Plan 1920-PL-B100
- Type B Housetype Elevations 1920-PL-B200
- Type C Housetype Floor Plans 1920-PL-CH200
- Type C Housetype Elevations 1920-PL-CH200
- Type D Housetype Floor Plans (V1) 1920-PL-D1100
- Type D Housetype Elevations (V1) 1920-PL-D1200
- Type D Housetype (V2) Elevations 1920 -PL-D2200
- Type D Housetype (V2) – Floor Plans 1920-PL-D2100
- Type E Housetype Elevations 1920-PL-E200 Rev A
- Type E Housetype Floor Plan 1920-PL-E100 Rev A
- Type F Housetype Floor Plan 1920-PL-F100
- Type F Housetype Elevations 1920-PL-F200
- Single Garage-PL-G100 Rev A
- Double Garage-PL-G200 Rev A
- Preliminary Access Design Sheet 1 of 1 100307_01_0100_01 Rev H
- Revised Vehicle Tracking 10037_01_0100_02.3 Rev F
- Revised Vehicle Tracking 10037_01_0100_02.4 Rev F

Documents:

- Speed Surveys for Cadley Hill 2021
- Highway Matters Cover Letter Jan 2023 – DICE Consulting
- Brindle & Green Preliminary Ecological Appraisal BG19.268 Aug 2019
- Drainage Statement DICE 100307/WO/JAN-20/01 Jan 2020
- Coal Mining Risk Assessment January 2019 Ivy House
- Gas Addendum Letter – IV.07.19.G.Let 1 June 2019
- Noise Impact Assessment – March 2020 Report Ref P4136-R1-V1
- Phase I & II Geo environmental assessment incorporating a Coal Mining Legacy Probe Ivy House May 2019
- Planning Obligation Statement
- Design and Access Statement Project Number 1920 12th May Revision
- Brindle and Green BNG Impact Assessment BG19.268.2 May 2020
- Planning Statement – John Church November 2020

- Addendum Acoustic Report NoiseAir Nov 2020 Report Ref P4136-R1-AD1
- BNG Metric Calculation V1
- Phase 1 Habitat Survey Reptile October 2020
- Arboricultural Impact Assessment Survey and Report August 2019

Summary of Recommendations

The recommendation of this report is to APPROVE the application subject to conditions and a S106 Agreement.

Publication and Consultation

The application was submitted in January 2020 but only validated in May 2020. The application was publicised via two rounds of consultation.

The first consultation period appears to have been triggered by the submission in January and again in May. Further to this, there was also a site notice erected on the 5th June advertising for comments until the 26th June. The period of publication is sufficient to meet legislation. The application was revised with further supporting information and drawings regarding layout. A second round of consultation was undertaken on this basis running from 17th December 2020 until 11th January 2021.

The application was subsequently amended to reduce dwelling numbers and provide further information in response to consultation comments, namely highways.

A third period of consultation was undertaken given these revisions running from 7th October until 21st October 2022.

Overall during all periods the application was publicised by letters, a site notice and a press notice for the second period, outlining that the proposed development and/or amendments had been made. On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The applications have received the following responses final positions from external parties and wider SDDC departments summarised as follows:

Environmental Health Officer – No objection subject to conditions

The EHO officer has corresponded with the applicant's acoustician at length. In terms of noise, the EHO officer raises no objection subject to conditions, relating to mechanical ventilation -mechanical ventilation 'option 2' scenarios in table 5 (page 17) are required by condition.

With regards to contamination and legacy impacts of Coal, the EHO raises no objection subject to a condition relating to gas mitigation measures during construction.

Planning Policy officer - No objection

The proposal lies within the boundary of the Swadlincote urban area as defined in Local Plan Part 2 Policy SDT1 and residential development is therefore acceptable in principle. The planning officer referred to the adjacent employment uses and suggested consideration was given in consultation with the EHO Officer to noise and vibration to the dwellings.

Open Space and Landscape Officer – No objection subject to contributions

Noted that there was no defined provision for open space in the proposed development. The proposal triggers SDDC S106 SPD 2010 for a commuted sum payable to off site provision,

which includes the cost of providing and maintaining the facility, the closest which would be Cadley Park – contribution to offsite provision of additional and/or improved open space facilities Using the calculations as detailed in the document

For recreation / open space provision - £455.72 per person x 50 = £22,786.00

For recreation / outdoor facilities - £274.41 per person x 50 = £13,720.50

Total suggested contribution is £36,506.50

Derbyshire County Council (DCC) – Highways Authority

The application has been subject of ongoing correspondence between the applicants engineers and Highways authority. Final comments provided raised no objection to the proposal subject to interventions in the network and conditions.

Coal Authority – No objection

The Coal Authority considered that the applicant, based on the professional opinion provided by their Geoenvironmental Consultant (Ivy House Environmental Ltd) had demonstrated to the LPA that the site is not at risk from former coal mining activity recorded at the site. On this basis, they raised no objection.

Derbyshire County Council – Local Lead Flood Authority (LLFA) – No objection subject to conditions

No objection was raised to the proposal to drain into the public sewer network subject to standard conditions seeking the final detail of the drainage strategy, levels and subsequent agreements confirming drainage to network.

Derbyshire County Council – No objection subject to contributions

Regarding Primary Education the proposed development falls within and directly relates to the normal area of Stanton Primary School. The proposed development of 14 dwellings would generate the need to provide for an additional 3 pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 3 primary pupils arising from the proposed development.

Regarding Secondary Education the proposed development falls within and directly relates to the normal area of The Pingle Academy. The proposed development of 14 dwellings would generate the need to provide for an additional 4 secondary with post16 pupils. The Pingle Academy has a net capacity for 1441 pupils with 1400 pupils currently on roll. The number of pupils on roll is projected to increase to 1428 during the next five years. The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms.

The County Council therefore requests financial contributions as follows:

- £112,132.28 towards the provision of 4 secondary with post16 places at The Pingle Academy + additional education facilities.

Broadband and employment and skills initiatives should also be sought in a legal agreement.

Any S106 to which the DCC is party too will be subject to monitoring and the fee will be based on the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

Derbyshire NHS CCG

Do not seek a contribution from this development.

Derbyshire Wildlife Trust (DWT) – No objection subject to conditions

DWT officer noted the areas designated for the establishment of neutral grassland as well as details for hedgerows and a reptile hibernacula. Conditions were requested on the location of the new areas of grassland and concern raised if shrubs were planted in this area. Further conditions were requested to protect birds and reptiles.

Overall, the revised metric indicates that there is the potential to achieve a small net gain on-site through the establishment of vegetated gardens, urban trees, neutral grassland, mixed scrub and shrubs. On this basis, subject to conditions the DWT raised no objections.

National Forest Company (NFC) – No objection subject to contribution

NFC sought a contribution which would amount to £4,900 in lieu of on-site National Forest planting to enable off site National Forest planting to be carried out. This would be inline with Policy INF8 of the Local Plan. On this basis, they raised no objection to the application.

Severn Trent – No objection subject to legal agreement to connect to sewer

The surface and foul drainage will connect to the public sewer which was accepted by Severn Trent. The connections will be subject to formal sewer connection approval.

Suggested Informative

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

Public Responses

The application has received 9 objections over the periods of consultation. When reviewed it appears that 3 come from a single property, 4 from the same person, with two being received from other members of the public. These comments can be summarised as follows:

- a) Overlooking from Plot 1 and wider development to Ashtree House in terms of windows and rear garden
- b) Removal of vegetation on that is within the ownership of Ashtree House to facilitate delivery of Plot 1
- c) Development on site is higher than Ashtree House exacerbating overlooking
- d) Construction of the site will cause major distress and inconvenience to Ashtree House – will this be controlled?
- e) Proposal for a new pedestrian crossing will lead to more persons walking outside the house which will result in more noise for Ashtree House
- f) Purchaser of adjacent house and proposal application didn't show up on searches
- g) Plans/issues with availability of information available on the SDDC website
- h) Concerns around poor visibility entering Cadley Hill from site due to hedgerow
- i) Major concerns on the safety to Ashtree House directly next to the development due to structural issues
- j) Existing noise would impact the development given its residential and closer than existing
- k) Development would give rise to congestion on an already busy 40mph road
- l) Cadley Hill Road provides the only access in the area for HGVs given the banning of such through the newer estate at Church Gresley

- m) The existing traffic vibrates Ash Tree House
- n) Existing traffic speeds along the road causing additional noise to Ash Tree House
- o) What will be the working hours during construction
- p) Previous use allowed/caused anti social behaviour of fires so controls should be put on this use to ensure such does not occur here
- q) Development will exacerbate flooding in the area/Cadley Hill Road which already floods
- r) Ash Tree House has large hedges for privacy and previously was given access to maintain them from the site – will this be maintained?
- s) Internal layouts should be provided showing window locations to understand overlooking issues
- t) Ash Tree House was refused planning permission for an extension due to the roof design adversely impacting the character of the house and street – proposed development would have greater adverse impact and should be refused
- u) Overshadowing caused to Ash Tree House
- v) Ash Tree House has been subject to subsidence which will be exacerbated by the development due to the proximity of the proposals irrespective of foundation design
- w) Development will de value Ash Tree House
- x) Queries around the Party Wall between the proposal and Ash Tree House - Will the builder instruct and pay for a Party Wall Notice for both parties?
- y) Activities such as piling or soil compaction cause vibration, which can result in damage to Ashtree House. Will the Builder draw up a legal document of their agreement to repair any damage what so ever and compensation incurred.
- z) Will a vibration monitor be installed by an independent company at the developers cost?
- aa) Are the developers registered with The Considerate Constructors Scheme or similar?
- bb) Any damage incurred will be reflected in Insurance companies possibly refusing to insure Ashtree House buildings, what will you put in place to compensate any damage caused and loss of buildings insurance.
- cc) A structural survey has been prepared on Ash Tree House showing the property tilts towards the rear and is likely residual permanent distortion caused by historic coal mining activity. There is shrinkage of the clay based sub-soils supporting the right side extension/garage foundations which is active. There is structural damage to left hand side of the property which is active. It states the proposed development on the right side of our property could potentially cause damage to our house if appropriate measures are not taken in designing and constructing suitable foundations. Vibrations from driven piles or deep excavations adjacent to our foundations would be considered high risk.

Further to this, there have been objections made by Keystone Lintels (neighbouring industrial company), with their final objection raising the following points:

- a) Accepts the recommendation for whole house mechanical ventilation to mitigate against noise impacts
- b) The submitted noise assessment assesses the unloading and loading from the area with 24 hour consent, however the assessment should address potential maximum noise levels from the storage area which may be subject to an extension of hours in the future.
- c) The proposal would permit residential dwellings 20m away from the Keystone Lintels boundary which would restrict the application for future extension of hours and/or production.
- d) The previous addendum report dated 20 November 2020 para 2.1.12 notes noise sources during the additional noise survey including voices and radios. These sources

were not noted as being audible during a noise survey carried out in October 2020 as part of the application for the extension of working hours at existing noise sensitive properties, which are further away.

In addition, with regards to previous comments the objection reiterated:

- e) Noise assessment has been undertaken using typical background noise levels – previous and current noise assessments the lowest background noise level has been required.
- f) Noise assessment concludes noise would have an adverse impact, with four plots experiencing a significant adverse impact during daytime hours when operations on Keystone Lintels are taken into account.
- g) For existing noise levels 4 plots will experience adverse impact and 1 plot significant adverse impact. There is a local authority requirement to demonstrate that noise levels are below existing background noise levels.
- h) The night time assessment shows significant adverse impact on all plots of the development, demonstrating that the noise levels from operations at Keystones would be significantly above the existing background noise levels.
- i) This would adversely affect any application for the extension of working hours on the Keystone premises, which is a necessity during the covid pandemic to maintain the operations and retain the existing jobs.

Relevant planning history

The site is subject to the following planning history:

9/2016/0654 – Outline application (all matters to be reserved) for the residential development of one detached dwelling and garage – Withdrawn

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act, 2004 requires the determination of this application to be made in accordance with the development plan, unless material considerations indicate otherwise.

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), H1 (Settlement Boundary), H20 (Housing Balance)

SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF8 (The National Forest)

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

The relevant local guidance is:

South Derbyshire Design Guide SPD (2017)

South Derbyshire Housing Position Paper (February 2020)

South Derbyshire

The relevant national guidance is:

Planning considerations

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

- Principle of the development
- Layout and Design;
- Highways and Access;
- Ecology, Biodiversity and Trees;
- Drainage;
- Other Matters – Coal;
- Developer Contributions; and
- Conclusion and Planning Balance

Planning Assessment

The Principle of Development

The site is located within the settlement boundary of Swadlincote, as defined by policy SDT1. Policy H1 sets out the distribution of new housing development outside of allocations. Policy H1 states that Swadlincote is an urban area which should be the primary focus of development and development of all sizes within this settlement is considered appropriate.

On this basis, the proposal for 14 dwellings is acceptable in principle.

Amenity and Housing Quality

Local Plan Part 1 Policy SD1 indicates that “the Council will support development that does not lead to adverse impacts on the environment or amenity of existing or future occupiers within or around proposed developments.” Part B (iii) indicates that the Council will take into consideration “the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues such as odours, fumes or dust and other disturbances such as noise, vibration, light and shadow flicker.”

The site lies immediately adjacent to the Keystone Lintels industrial premises, whilst Boardman’s Industrial Estate lies on the opposite side of Cadley Hill Road. Keystone Lintels have objected to the proposal.

As set out in the introduction, the land to the west of the site is also allocated via Policy E1 – E1A for employment use across an area of 3 hectares. This is new land and not currently committed in the policy. Within Policy E1 it states:

At sites allocated for strategic employment development at E1A, E1B, E1C and E1E the Council will secure provision to meet the needs of small and “grow on” businesses in the form of premises or serviced plots, to be brought forward during the course of the development, either by conditions or a legal agreement attached to a planning permission.

The allocated land closest to the site is in use as a yard for Keystone Lintels and subject to a range of permissions set out further below.

In 2018 the NPPF introduced the agent of change principle. The 'agent of change principle' encapsulates the position that a person or business (ie the agent) introducing a new land use is responsible for managing the impact of that change. The NPPF has been subsequently revised and states the following

187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

The application has been supported by a Noise Assessment and further information as requested by the EHO officer during the rounds of consultation. There are existing properties along Cadley Hill Road. It is accepted that the proposal will result in residences being 20m from Keystone Lintels boundary.

Keystone Lintels currently operates from a site which comprises 3 buildings – A, B & C. Building A was consented under 9/2005/0341 and is controlled by condition with standard working times. Building B was consented under 9/1088/770 which is not controlled and effectively 24 hour. Building C was consented under 9/2014/0411 which allows for working from 7am until 9pm M/F and 8am until 4pm Saturday. There is a further Building (D) which is undeveloped, but was permitted under 9/2014/0411, and small covered area Building E permitted under 2019/0421 which both have the same working hours as building C above. There are outside yard areas in association with the operations. The yard area comprising the majority of outside space for working, enveloping Building C, E and D and closest to the boundary of the proposal site is permitted for:
loading and unloading of vehicles and/or stacking/unstacking of products between 0700 and 2100 hours Monday to Friday, and 0800 to 1600 on Saturdays. There shall be no loading and unloading of vehicles and/or stacking/unstacking of products within the external areas at any time on Sundays or on Bank or Public Holidays.

There is a further yard which is permitted for 24hour use but this is set away from the boundary, comparatively smaller and within the site.

Keystone Lintels was successful in applying for 24hour working during the Covid pandemic. The correspondence shared by the EHO department outlines that the 24 hour basis was to be from May 2020 and would be within Building C only, confirmed as being with "All doors will be fully closed and no external working will occur except in designated 24 hour working zones". There was no deadline to this given the unprecedented nature of the situation and the Government's requests for LPAs to work positively with requests at that time.

In response to this, it is proposed that the dwellings will be designed to provide suitable indoor amenity by providing full mechanical ventilation this will help ambient noise internally and in addition the boundary treatment and existing tree planting will assist with external noise. The EHO officer accepts this mitigation and raises no objection to the application. The area is already a mixed use area with both existing residential uses and employment operations. It is considered, that the proposal would not result in Keystone Lintels current operations being undermined by virtue of the additional dwellings in this proposal. The dwellings are market tenure where any buyer would be aware of the context. Keystone Lintels have raised the possibility of applying to extend the area within which they have 24 hour working – bringing it

closer to the boundary. It is understood the previous application for 24 hour working was permitted during the Covid pandemic which was the driving consideration at the time. It is not considered unreasonable to permit the new dwellings which could be new considerations in applying for wider 24 hour working, especially given that they are market tenure, would benefit from additional noise mitigation beyond a standard dwelling, as well as the context of the existing dwellings.

The allocated land under policy E1A not subject to permissions, is considered to be of a distance away that would help further mitigate any noise impacts to a level beyond that deemed acceptable by the EHO. In addition the allocation seeks '*to meet the needs of small and "grow on" businesses*' which is considered unlikely to cause significant levels of disturbance given the scale of operations sought and any new employment applications would have to take consideration of the dwellings.

It is considered that there will be a satisfactory internal amenity, relationship between the uses and this will not undermine the operation of the nearby commercial units or allocation given the considerations set out above.

On this basis, the proposals are considered to not undermine the surrounding operations inline with the NPPF and deliver dwellings of suitable quality and amenity inline with policy BNE1.

Layout and Design

The site is accessed from Cadley Hill Road and an estate road curves around the L shaped site. The layout provides two dwellings facing Cadley Hill in line with the existing ribbon development which is welcomed to create a street frontage. Layout revisions to provide additional planting and for access have resulted in the removal of the dwelling proposed adjacent to Ashtree House. Whilst this does result in a slight gap in the streetscene the wider benefits arising as above and addressing neighbour objections is given more weight in this instance.

The remaining dwellings within the site are arranged around the estate road with two turning heads leading onto shared drives. The layout of the proposed housing is considered to be acceptable and appropriate for the site.

The range of house designs are limited but reflect a modern twist on the local vernacular to ensure a coherent design across the site. Dwellings would be two storeys in height and detached in plots with front and rear gardens and off street parking. The materials palette is red brick with a mixture of grey and brown roof tiles, with large modern glazing and feature brick elements. The houses are built to nationally prescribed space standards and are capable of meeting Part M4(1) requirements for access. In light of this it is considered that the proposed dwellings are of an acceptable design and appearance.

It is considered that the density of layout of the proposal would not adversely impact upon the character or appearance of the surrounding area, given that each house is set in a large plot with front and rear amenity, off street parking, built to national prescribed standards and when considering densities applied in the SHELAA in fringe areas of Swadlincote.

In terms of residential amenity, as set out above the unit closest to Ashtree House has been removed addressing concerns. Plot 1 on the southern side is located immediately adjacent to the boundary but away from Ash Tree House and the boundary between Plots 1 and 2 is dense established trees which is considered to mitigate any overlooking. Plot 14's alignment with dwellings to the north results in an acceptable relationship. Plot 12s positioning to the rear of the adjacent dwelling known as Woodstock, and the size of the rear amenity of Woodstock is considered to result in no undue impact on the amenity of that dwelling.

Given this context this is considered to ensure that adjacent development would not be overbearing on the existing residents in compliance with Local Plan Policy BNE1. The proposed layout generally accords with the standards set out in the council's adopted Design SPD.

The layout does not provide any on site open space. Given the number of residential properties proposed, a contribution to off site open space is considered appropriate. The closest such space noted by Officers is Cadley Park and a contribution of £36,506.50 towards improvements to open space within the vicinity of the site is considered reasonable. The Open Space Officer supports this request and this has been accepted by the applicant. Overall, it is considered that the proposal is in line with policy BNE1 and deliver a high quality design creating satisfactory living environments for the future occupiers of the proposed dwellings and not unduly impact existing residential development.

Highways and Access

The most applicable policies to consider are S1, S2, S6, H19, BNE1, INF1 and INF2 of the LP1 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects.

The site is located at the extent of the settlement boundary of Swadlincote. This site is not well served by public transport. On this basis, the likely mode of trip will be by car. Notwithstanding this, policy H1 supports development within the settlement boundary. No objection has been raised by the Highways department in terms of sustainability or capacity of the local network.

The application has been subject to considerable scrutiny by the Highways department throughout the determination of the application. The main issue being safe access from Cadley Hill Road which is 40mph. Revised assessments in terms of speed on Cadley Hill, visibility splays and wider interventions in the network infrastructure to ensure adoptability have been provided.

The visibility splays are 87m without the need for third party land and in front of lighting columns. In addition, there will also be a traffic island to assist in pedestrian movement from the site onto the existing pavement on the east side of the road. The access into the site will be 5.5m which is to adoptable standard.

The revised information has been discussed with the Highways Authority who in the correspondence now accept the access and network arrangement. Final comments confirm no objection to this matter.

The internal estate road has been revised to 5.5m which is the adoptable standard. On this basis, the road would be acceptable for S38 adoption. The 'adoptable' road enables acceptable tracking for the refuse and emergency vehicles.

The shared drives leading off turning heads are not overly long and would be acceptable for waste drag distances. Current building regulations state that residents can drag their bins 30m from their dwelling and waste lorries need to be within 25m of their collection point. No tracking for these shared drives is necessary and bin and emergency access is sufficient on the adoptable road. Off-street parking is provided on plot and these arrangements are considered to be in line with the Design SPD on this matter with dimensions being conditioned.

Overall, based on revisions and further information provided in correspondence seen between the applicant and Highways department, no objection is raised to access and transport from the Highways authority. On this basis, the application is acceptable in terms of access and its impact on highways.

Biodiversity, Ecology and Trees

Local Plan Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible. Policy BNE7 manages trees, woodland and hedgerows. Where new planting is proposed on site these will be supported and the main concern is to ensure suitable tree species. The site is located within the designated allocation for the National Forest which is supported by Policy INF8.

The site is dominated by semi-improved neutral grassland bordered by species poor hedgerow along the north and eastern boundary and mature tree planting along southern and western.

The application was supported by:

- 1920 Site PL-050D Proposed Site Plan
- Preliminary Ecological Appraisal by Brindle and Green 2019
- Biodiversity Impact Assessment for Net Gain dated May 2020
- Reptile Presence / Absence survey by Brindle and Green October 2020
- Completed BNG matrix by Brindle and Green 2022

The proposal has the potential to achieve a small net gain on-site through the establishment of vegetated gardens, urban trees, neutral grassland, mixed scrub and shrubs. Concern was raised in terms of the provision of grassland and scrub. The proposal has removed a dwelling on its eastern side which enables the space to provide this grassland. DWT raised concern that any substantial planting on the grassland may impinge its operation. However, the site is located in the National Forest which seeks the planting of trees in line with INF8. After discussion with DWT they accept this consideration and remain no objection with LBEMP condition, where the detail of planting can be managed.

Currently on site there will be the retention of the majority of trees, however x3 trees will be lost at the south eastern side of the site. The application was supported by an AIA and seeks to plant a minimum of x26 semi mature trees as shown on the proposed layout plan. This includes planting on the space which would also provide grassland. The surrounding trees will be retained, and the layout respects the root protection areas of these trees.

In line with Policy INF8 the NFC is seeking a contribution of £4,900 in lieu of on-site planting to enable off site National Forest planting to be carried out. This has been accepted by the applicant.

DWT has set out that a BNG can be delivered, in addition the NFC raises no objection. It is considered that a final plan indicating the location for these habitats and tree planting could be included in the LBEMP outlined below. Provided the LBEMP can still demonstrate the delivery of the habitats proposed this is an acceptable approach that would lead to a satisfactory balancing of these matters.

In terms of fauna, section 7.2 of the Reptile report recommends a precautionary approach is taken to the removal of scrub and grassland on site. DWT seek that this approach should be adopted as part of a CEMP to be conditioned. Further to this given the adjacent surrounding open spaces and tree planting, small mammal gaps in boundary treatments will be conditioned to support connectivity. Lastly, nesting opportunities such as integral nest boxes will be conditioned at a ratio of 1:1 to dwelling inline with BS 42021:2021 Integral nest boxes – Selection and installation for new developments.

On this basis, the proposal accords with the Environment Act, objectives of the NPPF and policies BNE3, BNE7, INF 7 and INF 8 of the LP1.

Drainage

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1.

The application was supported by Drainage Statement, Report Ref: 10037/WO/JAN_20/01 Dated January 2020 and Proposed Drainage Strategy, Drawing Ref: 100307-01-0500-01 Dated 04/10/19. The applicant is proposing to discharge the surface water runoff (restricted discharge rate 5l/s) and the foul from the proposed development into an existing combined sewer in Cadley Hill Road. This asset is owned and managed by Severn Trent.

Derbyshire County as Local Lead Flood Authority and Severn Trent as asset owner have been consulted and raise no objections the proposal subject to conditions which will be attached. The connection to the drainage infrastructure will need to be in place before the occupation of this site and conditions will be added to ensure this.

Overall, in terms of flood risk, water management and drainage subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

Other Matters – Coal & Water Usage

The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The planning application is accompanied by:

Coal Mining Risk Assessment, dated January 2019 and;

Phase I and II Geo-Environmental Assessment incorporating a Coal Mining Legacy Probe Drilling Report, dated May 2019. Both Reports have been prepared by Ivy House Environmental Ltd

Borehole logs and a plan illustrating where the boreholes were drilled are appended to the Reports. It is noted that these works were undertaken with the Coal Authority's written consent under permit ref: 17900. Based on the results of the ground investigations, the report identifies that the rotary probe drilling has shown that shallow unrecorded workings are not present beneath the site and therefore the risk of instability due to mine workings is assessed as negligible and no further assessment and or mitigation measures are required to address coal mining legacy. The Coal Authority raises no objection to the proposed development and no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues.

On this basis, Officers consider that the applicant has demonstrated to the LPA that the site is suitable for development and the proposed development will be safe and stable inline with NPPF paras. 178-179.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure, sets out measures to help manage water as a resource, one being:

ii) Supporting activities by the Water Companies to reduce demand for water and in turn suppress sewerage and discharge effluent volumes by ensuring that water consumption is no more than 110 litres per person per day (including external water use) as estimated using the Water Calculator methodology¹ or all water fittings do not exceed the performance set out in Table 5 below;

This is delivered by the performance measures set out in the Local Plan. To ensure compliance with this policy and help manage water as a resource in the District, a condition will be added to ensure the dwellings are compliant

Developer Contributions

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.

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.

It is considered that proposed development would lead to an increase in the local population which would create additional demand for local services – notably as raised by public comments education and healthcare. Consultation comments have been provided to demonstrate that additional provision would be required to cope with the increased demand on existing facilities and therefore, on this basis, these obligations are considered 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.

The following matters therefore will need to be controlled by legal obligation under Section 106 of the Town and Country Planning Act (1990)(as amended). The Heads of Terms upon which the legal agreement is being drafted is as follows:

National Forest Contribution - *National Forest Company contribution which would amount to £4,900 to enable off site woodland planting to be carried out. The NFC also welcomes the suggested off site biodiversity enhancement proposed and this could potentially integrate with the proposed woodland provision.*

Open space contribution – £36,506.50 towards Cadley Park based on 14 dwellings of 3 and 4 bedroom properties and equates to 50 bedrooms = 50 people.

Secondary education contribution – £112,132.28 towards the provision of 4 secondary with post16 places at The Pingle Academy + additional education facilities.

Broadband and employment and skills initiatives

Derbyshire County Council monitoring fee – the cumulative number of triggers to be monitored for County Council obligations x £73.50 (based on 2 hours officer time Grade 12).

South Derbyshire District Council Monitoring fees of £1000 which will be payable on commencement and in addition to legal fees.

No South Derbyshire nor Derbyshire County council liability to maintain any drainage

The NHS CCG for the area were consulted but it was deemed that no contribution was necessary.

Conclusion & Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this is considered to comprise SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). This is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The site is located within the settlement boundary of Swadlincote, considered a major urban area within South Derbyshire, and on this basis the site is suitable for residential development in principle. The dwellings proposed are considered to deliver an acceptable level of amenity subject to mitigation measures secured by conditions which will manage the relationship with surrounding development in line with the agent of change principle. The increased housing is considered to be a benefit as it will help SDDC meet its housing targets and maintain a 5-year housing supply.

The proposed layout demonstrates that the site has been considered holistically alongside adjacent development, with revisions being made to reduce impacts on adjacent development and result in no unacceptable impacts arising. The materials palette and design is considered to be inline with the vernacular and therefore acceptable.

Technical matters of access, highways, drainage and biodiversity have been assessed and it is understood no objections have or will be raised subject to conditions which will be added.

For these reasons, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG.

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.

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

Equality Implications

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

- A. GRANT permission subject to the conditions and legal agreement
- B. GRANT delegated authority to the Head of Planning and Strategic Housing to agree the final wording of the conditions as substantially set out below, in liaison with the Chair of the Planning Committee

Standard Conditions

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

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

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

Drawings:

- 1920 - PL- 001 Site Location Plan
- 1920 - PL - 005 Existing Site Plan
- 1920 - PL - 050 Proposed Site Plan Rev F
- Type A Housetype Elevations 1920-PL-A200 Rev A
- Type A Housetype Floor Plan 1920-PL-A100 Rev A
- Type B Housetype Floor Plan 1920-PL-B100
- Type B Housetype Elevations 1920-PL-B200
- Type C Housetype Floor Plans 1920-PL-CH200
- Type C Housetype Elevations 1920-PL-CH200
- Type D Housetype Floor Plans (V1) 1920-PL-D1100
- Type D Housetype Elevations (V1) 1920-PL-D1200
- Type D Housetype (V2) Elevations 1920 -PL-D2200
- Type D Housetype (v2) – Floor Plans 1920-PL-D2100
- Type E Housetype Elevations 1920-PL-E200 Rev A
- Type E Housetype Floor Plan 1920-PL-E100 Rev A
- Type F Housetype Floor Plan 1920-PL-F100
- Type F Housetype Elevations 1920-PL-F200
- Single Garage-PL-G100 Rev A
- Double Garage-PL-G200 Rev A
- Preliminary Access Design Sheet 1 of 1 100307_01_0100_01 Rev H
- Revised Vehicle Tracking 10037_01_0100_02.3 Rev F
- Revised Vehicle Tracking 10037_01_0100_02.4 Rev F

Documents:

- Speed Surveys for Cadley Hill 2021
- Highway Matters Cover Letter Jan 2023 – DICE Consulting
- Brindle & Green Preliminary Ecological Appraisal BG19.268 Aug 2019

- Drainage Statement DICE 100307/WO/JAN-20/01 Jan 2020
- Coal Mining Risk Assessment January 2019 Ivy House
- Gas Addendum Letter – IV.07.19.G.Let 1June 2019
- Noise Impact Assessment – March 2020 Report Ref P4136-R1-V1
- Phase I & II Geo environmental assessment incorporating a Coal Mining Legacy Probe Ivy House May 2019
- Planning Obligation Statement
- Design and Access Statement Project Number 1920 12th May Revision
- Brindle and Green BNG Impact Assessment BG19.268.2 May 2020
- Planning Statement – John Church November 2020
- Addendum Acoustic Report NoiseAir Nov 2020 Report Ref P4136-R1-AD1
- BNG Metric Calculation V1
- Phase 1 Habitat Survey Reptile October 2020
- Arboricultural Impact Assessment Survey and Report August 2019

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

Pre-Commencement

3. Prior to any sub grade works, sufficient measures to protect the development from the risks posed by any ground gases or vapours shall be installed during the construction of the development and shall be maintained for the duration of the life of the development. The measures which are installed shall meet the requirements of sections 3 and 6 of Building Research Establishment 414 (2001) “Protective Measures for Housing on Gas Contaminated Land construction methods” or any alternative proposals which achieve an equivalent level of protection shall be agreed in writing with this authority before the start of the development. A completion report confirming the detail of the measures installed shall be submitted to the LPA for approval in writing before occupation of the properties concerned.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

4. Prior to any construction works, details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highways during the construction of the development.

Reason: In order to minimize the amount of mud, soil and other materials originating from the site being deposited on the highway and to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway(s).

5. The construction of the proposed development shall be undertaken in line with the submitted document Arboricultural Impact Assessment Survey and Report August 2019. Any variations to the details of the measures hereby approved must only be undertaken after the proposed variations have been agreed in writing by the LPA.

Reason: To ensure no unacceptable impacts on protected and retained trees and hedgerows inline with Policy BNE4 and INF2 of the Local Plan.

6. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with:
 - a. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

8. No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Cadley Hill Road has been constructed. The junction shall be laid out in accordance with the approved plan (Drawing No. 100307-01-0100-01 Rev H), constructed to base level, drained, lit, provided with white lining and signage and visibility sightlines as shown on the approved drawing. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

9. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats. The LBEMP should be in accordance with the Biodiversity Metric 3.1 (dated 31/08/2022) and should clearly demonstrate a

biodiversity net gain. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

- a) Description and location of features to be retained, created, enhanced and managed including 0.05 ha of neutral grassland, 0.01 ha of scrub and urban trees and reptile hibernacula.
- b) Details of 14 integrated swift bricks
- c) Details of hedgehog connectivity gaps between the gardens.
- d) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- e) Appropriate management methods and practices to achieve aims and objectives.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- h) Details of the body or organization responsible for implementation of the plan.
- i) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals for the period of the plan.
- j) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- k) Detailed habitat enhancements for wildlife,
- l) Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- m) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 years) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

10. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats, species (including reptiles) or other sensitive biodiversity features at the site during construction.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.

- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

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

Reason: In the interests of safeguarding ecology and biodiversity during the period of construction.

11. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors;
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate;
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays); There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.
- v) Details of community engagement arrangements and complaints procedure;
- vi) Details of an acoustic hoarding on boundary of site;
- vii) Loading and unloading of plant and materials;
- viii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- ix) Details of noise, dust and air quality monitoring and compliance arrangements;
- x) Access and protection measures around the construction site for pedestrians, cyclists and other road users;
- xi) The location and timing of sensitive works to avoid harm to biodiversity features;
- xii) any proposed temporary traffic management;
- xiii) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control;
- xiv) storage of plant and materials used in constructing the development;

The Proposed Development shall only be carried out in accordance with an approved CEMP.

Reason: To safeguard residential amenity, to ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and protect areas of nature conservation interest.

Prior to completion / standalone trigger

12. Before works to create a new estate street take place, construction details of the residential estate street and footways (including layout, levels, gradients, surfacing and means of surface water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.

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

13. 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 first 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.

14. Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use.

Notwithstanding the above the dimensions should be as follows:

External parking - minimum of 2.5 x 5m but with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other obstructions on one side, and add 1m if bounded on both sides.

Garages - minimum of 3 x 6m (internal dimensions).

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

Reason: To ensure suitable provision of parking, residential amenity and inline with SDDC Design Supplementary Planning Document

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

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

16. Notwithstanding the submitted details, prior to the construction of a boundary wall, fence or gate, further details of the position, appearance and materials of those features including a timetable for their provision, 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 and timetable.

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

17. Notwithstanding the submitted details, prior to their provision further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) string courses, eaves, verges, corbelling, chimneys, and rainwater goods (including their method of fixing); and
- (b) all retaining structures, including their materials.

The development shall be implemented incorporating the approved details of the building elements which shall be maintained as approved throughout the lifetime of the development.

Reason: To ensure a satisfactory standard of external appearance in the interest of the visual amenity and local distinctiveness

18. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an Agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: To ensure suitable and acceptable access to the development is maintained for the lifetime of the development

19. Prior to the occupation of any dwelling evidence setting out the programme of the delivery for the uncontrolled crossing point and kerbside arrangements shown in Proposed Preliminary Access Design Rev H, shall be submitted to and approved in writing by the Local Planning Authority. The programme shall show that the works shall be delivered within at least 6 months from the occupation of the first dwelling.

Reason: To ensure safe, suitable and acceptable access to the development for pedestrians

20. Prior to the installation of any lighting fixtures, beyond 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, a detailed lighting

strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: To safeguard residential amenity, ensure no unacceptable impacts on wildlife, protect areas in the interests of nature conservation and transport network.

Compliance

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

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

22. No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: To ensure no unacceptable impacts on wildlife and protect areas in the interests of nature conservation.

23. Prior to the completion of development including preparatory works the details of any fencing (including temporary) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

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

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

25. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to each plot / 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.

26. Notwithstanding the submitted drawings, 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, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interest of highway safety and safeguarding residential amenity

27. Notwithstanding the submitted drawings and documents, to ensure compliance with Policy SD3 criteria ii), each dwelling shall be constructed to ensure that water consumption is no more than 110litres per person per day by ensuring that the fittings meet the standards set out in Table 5: Local Water Requirements of the SDDC Local Plan.

Reason: In the interest of sustainable development, potable water management and inline with Policy SD3 of the SDDC Local Plan.

28. If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants.

Informatives:

Highways

- h. 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 recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.*
- i. Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*

- j. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
 - k. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk*
 - l. *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.*
 - m. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.*
 - n. *The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*
- A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.*
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.*
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.*
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.*

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure*
- A safe point of extraction*
- How users can safely evacuate the site upon receipt of a flood warning*
- The areas of responsibility for those participating in the plan*
- The procedures for implementing the plan*
- How users will be made aware of flood risk*
- How users will be made aware of flood resilience*
- Who will be responsible for the update of the flood evacuation plan*

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.*
- Inspection chambers, manholes and silt traps including cover and invert levels.*
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.*
- Soakaways, including size and material.*
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- Site ground levels and finished floor levels.*

J. On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- *Ground percolation tests to BRE 365.*
- *Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- *Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- *Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*

- *Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- *Drawing details including sizes and material.*
- *Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*
- *Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

The applicant is advised that under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Item No. 1.5

Ref. No. [DMPA/2022/1280](#)

Valid date: 27/10/2022

Applicant: Ian Earl

Agent: TUK Architecture

Proposal: Change of use of land for Glamping and overnight tourist accommodation and access track at Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN

Ward: Melbourne

Reason for committee determination

Historic England have advised the Council that further information is required to examine the impact on designated heritage assets in order to determine the application.

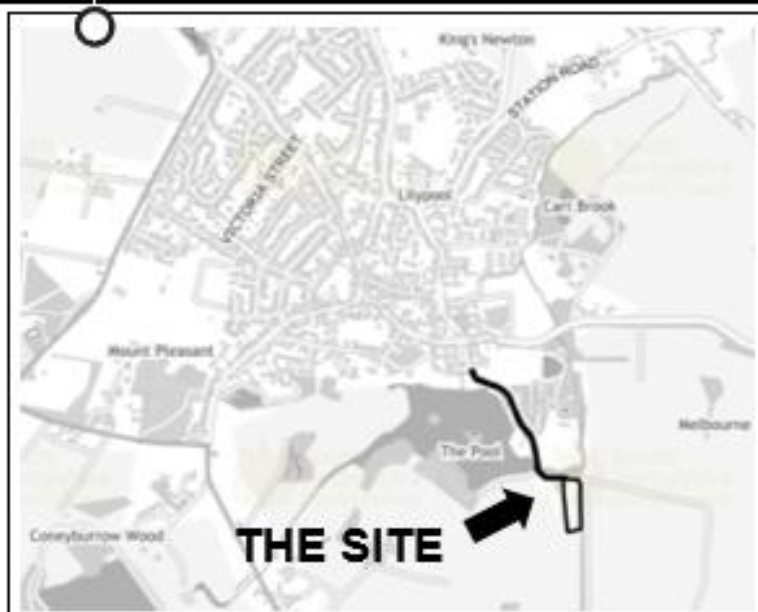
Site Description

The proposal site located within the Melbourne Hall estate. Melbourne Hall is a Grade II* Listed country house set within a Grade I Listed Historic Park and Gardens. The proposal site consists of an area of open land accessed from Pool Lane which is to the south of the listed Melbourne Hall. The application site is adjacent to a pair of two storey buildings which are also owned by the estate, and lies just outside the boundary of the Registered Park and Gardens. The site also lies outside of the Melbourne Conservation Area boundary and outside of the settlement boundary.

The proposal

The application seeks planning permission to change the use of the land to allow glamping and overnight tourist accommodation with an associated access track. The proposal involves using a variety of vehicles such as a 'Maltese Bus', 'German Fire Truck', 'Citroen Camper' and Morris Minor Caravanette' amongst others to be confirmed, which are vintage restoration vehicles from the 1960s-80s to provide 8 units of accommodation aligned along a new track in the middle of the site, mainly

DMPA/2022/1280 – Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN



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running towards the southern part of the site. There are also 'Horse Trailers', 'Glawnings' and 'Bell tents' proposed to provide associated facilities such as shower, toilet and additional living space.

The proposed works do not involve any building operations. The proposal intends to provide a seasonal glamping site from April-September and out of season storage for from October-March for the vintage vehicles to be converted to overnight accommodation.

It should also be noted the proposed glamping site would feature in a television 'docuseries' broadcasted by 'Channel 4' and filming is expected to commence in April 2023. It is for this reason that a decision needs to be reached at this special planning committee meeting. Temporary planning permission (ref: DMPA/2022/0883) was granted at the site for a similar scheme last year which was also expected to feature on television, however this event was cancelled.

Applicant's supporting information

The application is supported with the following plans and documents:

- Location Plan
- Site Plan
- Planning and Heritage Statement
- Glamping Units, Ancillary Units & Facilities (Document)

Relevant planning history

DMPA/2022/0883 – Temporary use of land for glamping and overnight tourist accommodation. Permission granted on 31st August 2022.

Responses to consultations and publicity

Conservation Officer

The Conservation Officer states:

"I am aware of comments on the application received from Historic England. Please note that the consultation response is not an objection from Historic England, but rather an advice note of a concern regarding the potential impacts on the significance that heritage assets at Melbourne Hall derive from their setting, in particular the registered park and garden, and Hall.

I have assessed the application and provide a professional view on local information and setting. I note that the response from Historic England is from a desk-based assessment. I understand the reason for Historic England's response, particularly given that on location plan the context of the site reads as a close relationship. However, the physical reality of the site is different, and I provide a conclusion of:

- 1. No harm to the setting of Listed Assets within the immediate location.*
- 2. No harm upon the designated heritage assets within the Melbourne Hall Estate & the Registered Park and Garden.*
- 3. No harm to the character and appearance of the adjacent Conservation Area."*

The Conservation Officer advised that there is sufficient information provided in the Planning & Heritage Statement submitted to support the application and does not consider it necessary for the application to include a Heritage Impact Assessment. In addition, it was advised that the proposal does not involve any permanent structures and thereby the site could be returned to

its existing state if the glamping is no longer required. The Conservation Officers conclusion states:

“The proposed use of the site is appropriate for this location, and there are public benefits to the delivery of diversification of land within Melbourne Estate; the income generated being directly reinvested into the Heritage Assets. The agent has provided confirmation that: The Glamping site will contribute much needed income which will greatly contribute to the maintenance of the Heritage assets. Without diversification and alternative revenue streams Melbourne Hall Estate could fall into disrepair, and may close to the public, which would be a great loss to the community, the town, and the general public.”

Historic England

The Council were advised that the application does not contain sufficient information to inform an assessment of the potential impacts on the significance that heritage assets at Melbourne Hall derive from their setting, in particular the registered park and garden, and hall. Historic England mention that Melbourne Hall, its park and garden are of the highest significance for their historic and architectural interest, there are concerns on heritage grounds due to the level of information submitted.

Whilst the Council has not received further information from the applicant with regards to heritage impacts, the Council's Conservation Officer considers there is sufficient information in order to assess the heritage impacts of the proposal, which is discussed and examined further in the design and heritage impact section of this report.

County Highway Authority

There were no objections subject to conditions requiring the provision of visibility splays, car parking and manoeuvring space to be implemented prior to the use of the development commencing.

Derbyshire Wildlife Trust

No objections

Melbourne Parish Council

No objections

Breedon Parish Council

No objections

Melbourne Civic Society

Objections were received concerning parking, inadequacy of heritage impact assessment, close to flood zones 2 & 3 and within flood prevention scheme under pending application DMPA/2020/0223.

Environment Agency

Confirmed there are no fluvial flood risk concerns associated with the site as it falls within flood zone 1. It is understood application ref. DMPA/2020/0223 involves engineering works to the pool located further to the west of the application site, an area of greater risk from fluvial flooding. The proposal is not considered to be affected by application ref: DMPA/2020/0223.

Local Lead Flood Authority (LLFA)

No objections

Derby County Council Public Rights of Way (PROW)

It was advised that foot path no.21 runs through the site and footpath no.24 runs close to the site. It must be noted there has been a misunderstanding, footpath no.21 is not within the site and the proposal does not alter this route. However, concerns were expressed regarding additional vehicular traffic causing a risk to path users.

Officers have consulted the Highways Authority seeking advice, including highway safety, which is discussed further in this report. Details shown on plans submitted indicate the public footpaths to be located outside of the application site. In the event of permission being granted, an informative shall be used to inform the applicant of the nearby footpaths and the legal requirements to ensure the routes remain unobstructed.

Development Control Archaeologist

No objections

Health & Safety Executive

No objections

County Highway Authority

No objections subject to conditions to require visibility splays to the access from Pool Road and also for the car parking (including manoeuvring space) to be implemented prior to the use of the development.

Public Comments

One objection was received from a resident expressing concerns that no plans have been provided to deal with the excess of people (including production/filming crew), noise, traffic, parking, or rubbish produced. Issues concerning noise, traffic and parking shall be discussed in the impact on residential amenity and high impacts sections of this report.

Due to the scale of development proposed, it would not be reasonable to require a management plan to deal with the number of people and it is believed that the estate, who own the site are responsible for managing waste/rubbish. The objector also raised concern that the use is already being advertised for bookings from April to September prior to permission being granted. The applicant should not be restricted from advertising the proposal in expectation of planning permission being granted, this is not a material planning consideration.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017 and the Melbourne Neighbourhood Plan made on 7th July 2022. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 South Derbyshire Local Plan – Part 1: S1 – Sustainable Growth Strategy, S2 – Presumption in Favour of Sustainable Development, SD1 – Amenity and Environmental

Quality, BNE1 – Design Excellence, BNE2 – Heritage Assets, BNE4 – Landscape Character and Local Distinctiveness, INF10 – Tourism Development

2017 South Derbyshire Local Plan – Part 2: SDT1 - Settlement Boundaries and Development, BNE5 – Development in Rural Areas, BNE10 – Heritage

Melbourne Neighbourhood Plan: Policy HC1 – Preservation of the Historical and Cultural Heritage Assets and existing Conservation Areas.

The relevant local guidance is:

South Derbyshire Design Guide SPD (Design SPD)

The national guidance is:

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;
- Design and Heritage Impacts;
- Impact on Residential Amenity; and
- Highway Impacts.

Planning assessment

Principle of Development

The application site lies outside of the settlement of Melbourne, within the rural countryside. Outside of settlement boundaries Policy BNE5 allows for tourism development (consistent with Policy INF10) where it will not have an undue impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets. Furthermore, policy INF10 of the Local Plan specifically encourages the development of tourism and visitor attraction facilities within or adjoining key service villages and in other appropriate locations, where accommodation is either of a temporary or reversible nature, through the re-use of existing buildings or in sustainable, well design new buildings.

The application would support the development of tourism by providing overnight accommodation for visitors to Melbourne. The proposal site is located within the grounds of the Melbourne Hall estate, which includes the Grade II* Listed Melbourne Hall and Grade I Listed Historic Park and Gardens, providing an attractive location for visitors which in return is potentially rewarding for the local economy. The proposed glamping site would also feature in a television 'docuseries' broadcasted by 'Channel 4', this would enhance the profile of the Melbourne Hall estate and attract visitors which would not only benefit the local economy but also support the maintenance of heritage assets within the estate.

Overall the proposal would meet the aims and objectives of policies S1 and INF10 of the Local Plan, thus the development is considered acceptable in principle, subject to meeting other

relevant local and neighbourhood plan policies which concern design and heritage impacts, residential amenity and highway impacts.

Design and Heritage Impacts

Policy BNE2 of the Local Plan states that development is expected to protect, conserve and enhance the District's heritage assets in accordance with national guidance. These principles are further supported under policy BNE10 of the Local Plan and also echoed by policy HC1 of the Melbourne Neighbourhood Development Plan, which supports proposals associated with the preservation of the historical and cultural heritage assets and the existing Conservation Areas of Melbourne.

The Council also has duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving Listed structures, their settings, or any features of special architectural or historic interest which they possess and to pay special attention to the preservation and enhancement of the surrounding Conservation Area.

Historic England were consulted who identified the exceptional historic interest of the Grade I registered park and garden (including statues and structures) and special historic interest of the Grade II* Listed Hall. Historic England noted that the application does not include an assessment of heritage significance and advised that further information should be submitted to assist the authority in determining the application.

The Council's Conservation Officer has been involved with the scheme during pre-application stage and also application stage, which has involved engaging with the applicant/agent and also several visits to Melbourne Estate to examine the impacts on the designated heritage assets. The Conservation Officer does not consider a Heritage Impact Assessment to be necessary in this instance, and considers there is sufficient information submitted in order to determine the impact of the proposal upon the heritage assets. The Conservation Officer concluded that there would be no harm to the setting of the listed assets within the immediate location or the designated heritage assets within Melbourne Hall estate and Registered Park and Garden, as well as no harm to the adjacent Conservation Area.

The Council's Conservation officer also advised the possibility of the maintenance of Melbourne Hall estate being at risk without income being generated from the proposed glamping which is expected to contribute towards the maintenance of heritage assets. Notwithstanding the point that the proposal is not considered to result in any harm to heritage assets, it is noted that the paragraph 202 of the NPPF states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

Officers also consider the number of units proposed, alongside the access tracks, would not be harmful to the character of the landscape or the locality. Whilst the site consists of open land, the siting and scale of the structures proposed are not considered to be visually harmful to the character of the site. The restored vintage vehicles are considered to be more attractive than traditional caravans, they are not visually intrusive and provide some interest to the site.

For the reasons outlined above, the proposal is considered to be in accordance with policies BNE1, BNE2, BNE4 and BNE10 of the Local Plan and policy HC1 of the Neighbourhood Plan.

Impact on Residential Amenity

Policy SD1 supports development that does not lead to adverse impacts on the environment or

amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity.

Adjacent to the site is a semi-detached pair of properties which are both owned by the estate, the closest property to the site is no.2 Pool Road. According to the Planning and Heritage Statement, no.2 Pool Road is currently vacant and is intended to be occupied by the proposed glamping site manager to facilitate the site.

The location of the proposed units would be situated to the south of nos. 1 & 2 Pool Road. The separation distance between the proposed units and the above properties would ensure there would be no significant impact in terms of natural light loss, overbearing impact or sense of enclosure. Whilst it is noted that the proposal will increase the comings and goings to and from the site, the siting and scale of the development is not considered to create an unreasonable loss of amenity to neighbouring occupiers in terms of noise and disturbance.

In light of the above, the proposal would not have a detrimental impact upon the residential amenities enjoyed by neighbouring occupiers.

Highway Impacts

The proposal seeks to create a new access track from Pool Road, which will run along part of the western edge of the site and lead to a car parking area towards the centre of the site. The Highways Authority were consulted who advised there are no objections subject to conditions to require visibility splays to the access from Pool Road and also for the car parking (including manoeuvring space) to be implemented prior to the use of the development.

The proposal is considered to provide appropriate car parking and safe accessibility subject to conditions. It is noted there are public rights of way (footpaths nos.21 & 24) nearby the site. The proposal is not considered to obstruct these routes, however an informative shall be used to ensure the applicant is made aware that the footpaths must remain unobstructed. Subject to conditions, the proposal will not harm the safety and efficiency of the highway in accordance with policy INF2 of the Local Plan.

Conclusion & Planning Balance

The proposal would attract and offer accommodation for visitors at Melbourne Hall estate, this will bring economic benefits to the locality and also support the maintenance and preservation of the Grade II Listed Melbourne Hall and Grade I Listed Historic Park and Gardens for the benefit of the public. The proposal will preserve the surrounding designated heritage assets and character of the landscape, there would be no adverse impact upon the residential amenities enjoyed by existing neighbouring occupiers or the efficiency of the highway.

Equality Implications

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 planning permission subject to the following conditions:-

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

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

2. The development hereby permitted shall be carried out in accordance with the plans and documents: Drawing No. 2206-MH34-L01 (Location Plan), Drawing No. 2206-MH35-L01 (Location Plan), Drawing No. 2206-MH26-L01 (Location Plan), Drawing No. 2206-MH26-S01 (Site Plan), Planning and Heritage Statement (dated September 2022), and 'Glamping Units, Ancillary Units & Facilities' (Document); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

3. Prior to the premises being taken into use, the access from Pool Road shall be provided with visibility splays of 2m x 25m in each direction. The area forward of the sightlines shall be cleared and maintained throughout the lifetime of the development free from any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: To comply with policy INF2 of the Local Plan.

4. Prior to the premises being taken into use, the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained throughout the lifetime of the development free from any impediment to its designated use.

Reason: To comply with policy INF2 of the Local Plan.

Informatives:

The application site is affected by two Public Rights of Way (Footpaths 21 & 24 in the parish of Melbourne as shown on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. For further information email ETC.PROW@derbyshire.gov.uk or telephone 01629 533190

Item No. 1.6

Ref. No. [DMPA/2022/0270](#)

Valid date: 23/02/2022

Applicant: Tom Warden

Agent: CSJ Planning Consultants

Proposal: Demolition of existing buildings and construction of new mixed-use development, with associated works at Mercia Marina, Findern Lane, Willington, Derby, DE65 6DW

Ward: Willington

Reason for committee determination

This item is presented to the Committee as the application is not fully in accordance with the Development Plan.

Site Description

The application site is within the existing Mercia Marina development and is adjacent north-west of Findern Lane. The site and surrounding land lies within Flood Zone 1. Conservation Area ref. EV12 Trent and Mersey Canal is 80 metres to the southeast of the application site. Listed Building ref. 1038328 Willington Hill Farmhouse (Grade II) is 680m to the west of the application site. There are no Public Rights of Way directly affected by the proposed development.

The development at Mercia Marina is a well-established business, that has grown steadily over the last 15 years. In that time a number of buildings have been added including the national award-winning boardwalk building which fronts the marina basin, the workshop building and the Piazza building which is an extension of the offering within the boardwalk with shops and restaurant to the ground floor and offices to the upper floors. A number of holiday lodges and moorings exist within the wider site also.

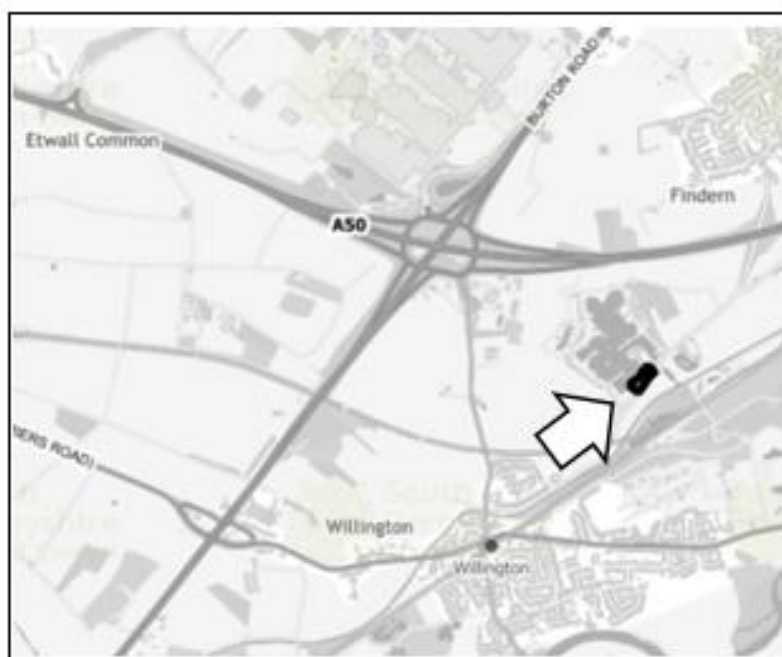
The three buildings to be removed currently are used as a tea room, newsagent and an office. They consist of two timber framed lodges built when the marina first opened and an original fishing lodge which predates the marine development. They are considered to be in average condition with some of the timber beginning to rot.

Site access by car is provided in two locations from Findern Lane. The main customer entrance is to the east of the site, near the canal access to the basin, and the secondary access is located at the southern corner of the site – used predominantly by residents. The exiting access points will be used for the proposed development and the communal car park will be reconfigured to accommodate the new development.

The proposal

The application seeks to build one new building to accommodate 7 no. commercial units at ground floor level with 2 floors of residential accommodation (14no. flats) above. The top floor is located within the roof space of the building. The building will have a footprint of 1,109m² and is to be constructed on previously developed land in place of the existing marina office, newsagent and tea-room buildings, which are to be removed. The building presents a 324%

DMPA/2022/0270 - Mercia Marina, Findern Lane, Willington, Derby, DE65 6DW



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South Derbyshire District Council, LA 100019461.2020

increase on the footprint of the existing structures it replaces which accounts for 0.25% increase on the marina as a whole.

Applicant's supporting information.

- Location Plan received 23rd February 2022
- Block Plan received 23rd February 2022
- Existing Site Plan received 23rd February 2022
- Existing Plans & Elevations received 23rd February 2022
- Existing & Proposed Site Sections received 23rd February 2022
- Proposed Site Plan received 23rd February 2022
- Proposed Ground Floor Plan received 23rd February 2022
- Proposed Floor Plans received 23rd February 2022
- Proposed Roof Plan received 23rd February 2022
- Proposed Elevations received 23rd February 2022
- Proposed Levels Plan received 23rd February 2022
- Site Photos & 3D Visuals received 23rd February 2022
- Financial Viability Assessment received February 2022.
- Retail Sequential Test received 23rd February 2022
- Planning Statement received 23rd February 2022
- Transport Statement received 23rd February 2022
- Travel Plan received 23rd February 2022
- Preliminary Ecological Appraisal received 23rd February 2022
- Arboricultural Survey & Method Statement received 23rd February 2022
- Drainage Strategy received 23rd February 2022
- Design & Access Statement received 23rd February 2022
- Economic Impact Assessment received 23rd February 2022
- Bat Survey received 11th August 2022
- Heritage Statement received 23rd February 2022
- Proposed Site Sections received 22nd February 2023

The applicant's supporting information, outlined in the Planning Statement, Economic Impact Assessment and the Financial Viability Assessment summarises why a development of this scale is needed to secure the long-term investment in the site. The business case states the marina is a key leisure and tourism destination in the district and an important contributor to the local economy. Continued investment is essential to ensure the business can continue to benefit the local economy and react to market pressures. The benefits of the proposed development are found to be substantial and include the creation of 43 additional jobs in the local economy and an additional GVA (Gross Value Added) of £11.9m across the local economy in the next 10 years. The development as proposed is the only viable option and is considered to represent the best way to deliver the economic and leisure / tourism benefits identified in the Economic Impact Assessment.

Relevant planning history

DMPA/2021/1670 - Proposed single storey building with class E a, b, c, d, g(i) use, alterations to existing carpark and fence – Approved June 2022.

DMPA/2021/0906 - Change of use of land to class E commercial berth – Approved August 2021.

DMPA/2021/0178 - The variation of condition no. 11 of permission ref. 9/2014/1137 (relating to further moorings) for the variation of condition 11 of planning permission 9/2013/0733 to

facilitate the use of 80 further existing leisure moorings for unrestricted residential occupation (totalling 260 moorings) – Pending.

DMPA/2021/0652 - The erection of a single storey to the existing workshop previously approved under 9/2015/0428 – Approved June 2021.

DMPA/2020/0213 – The construction of storage cabins at – Approved December 2020

DMPA/2020/0211 – The erection of a pavilion building (Class E use) and all-weather sports field – Approved December 2020.

DMPA/2020/1338 – Change of use of sports fields and carparking to erect 13 Holiday cabins, extend existing earth bunds, relocate and add storage cabins and amend the car parking layout – Approved May 2021.

9/2017/1311 - the construction of storage cabins and amendments to the previously approved scheme of car parking and service yard – Refused December 2016.

9/2016/1132 – overflow carpark – Approved December 2016.

9/2016/1049 - proposed reconstruction of existing timber veranda with glass and timber infill to create internal floor space – Approved December 2016.

9/2016/0066 - the erection of 32 holiday lodges (use class c3) and associated landscaping, wildlife pond, car parking and access – Approved December 2016.

9/2016/0903 – the erection of a building for use within use classes a1 (shops), a3 (restaurants and cafes), a4 (drinking establishments) and/or b1(a) (offices), the creation of additional car parking spaces and alterations to the configuration and use of secondary vehicular access to allow access to be used by residents, staff and service vehicles - Approved December 2016.

9/2015/1170 - the creation of an extension to the existing earth mound noise screen and the installation of acoustic fencing – Approved May 2016.

9/2015/1168 - the variation of condition 3 and removal of conditions 4 & 5 of planning permission ref: 9/2015/0772 (relating to the construction of 18 storage cabins in 4 separate blocks adjoining existing dry dock) – Approved February 2016.

9/2015/1120 - change of use of, and alterations to, land to create all weather tennis court, various sports fields and activity areas and the erection of a building for use as a gym, the creation of additional car parking area, area for motorhomes and the creation of a service yard including the siting of storage containers – Approved July 2016.

9/2015/0910 – the erection of nine log cabins – Approved November 2015.

9/2015/0772 - the construction of 18 storage cabins in 4 separate blocks adjoining existing dry dock – Approved October 2015.

9/2015/0428 - single story extension to the existing workshop -Approved July 2015

9/2014/1137 – The Variation of condition 11 of planning permission 9/2013/0733 to facilitate the use of 80 further existing leisure moorings for unrestricted residential occupation (totalling 260 mooring) – Approved May 2015.

9/2014/0409 - Installation of pontoon extension for two commercial moorings along with change of use of existing residential/leisure moorings to allow up to four further commercial moorings – Approved June 2014.

9/2014/0353 - Proposed event stand with roof – Approved June 2014.

9/2014/0324 - the display of signage to the front – Approved May 2014.

9/2014/0319 - the erection of new entrance walls – Approved May 2014.

9/2014/0316 - The variation of condition 4 of planning permission 9/2013/0597 to enable unit 2 to be occupied as a beauty salon and revert to A1 should the beauty salon use cease – Approved June 2014.

9/2013/0733 - The variation of condition 40 and removal of condition 38 to facilitate the use of 30% (180) of existing residential/leisure moorings for unrestricted residential occupation – Approved January 2014.

9/2013/0729 - The erection of nine log cabins – Approved November 2013.

9/2013/0597 - The variation of condition 4 of planning permission 9/2013/0290 – Approved September 2013.

9/2013/0290 - The erection of a building for mixed use (A1, A3 and B1(a)) – Approved July 2013.

9/2012/0989 - Amended scheme to 9/2012/0560 for the erection of a public house and retail/commercial buildings comprising A1 (shop), A4 (drinking establishment), B1 (business and D1 (training use) to allow for the combining of units 1 and 2 in the piazza building and the mixed use of unit 7 for A1 (shop)/A3 (restaurants & cafes) – Approved January 2013.

9/2012/0859 - the variation of condition 19 of planning permission 9/2012/0560 to allow units 1 and 2 in the piazza building to be combined to form a single unit – Approved December 2012.

9/2012/0560 - The erection of a public house and retail/commercial buildings for mixed use (A1, A4, B1 (offices) and D1 (training) use) – Approved August 2012.

9/2012/0095 - The erection of a gastro pub/retail complex and associated car parking (revised scheme for previously approved application 9/2010/0445) – Approved May 2012.

9/2011/0564 - The erection of retail building including modifications to the approved peninsula parking scheme and extension and alteration to the main car parking – Approved September 2011.

9/2010/0759 - The construction of 28 storage cabins built in 5 separate blocks and associated landscaping – Approved October 2010.

9/2010/0445 - The erection of a building to accommodate gastro pub with guest accommodation, fitness pool, gymnasium, spa and beauty salon – Approved October 2010.

9/2010/0045 - The erection of 18 log cabins – Approved April 2010.

9/2008/0672 - The variance of condition 4 on outline planning 9/2007/0550/M – Approved August 2008.

9/2008/0824 - New chandlery building and associated works – Approved October 2008.

9/2008/1133 - Retrospective application for two signs with up lighters – Approved January 2009.

9/2008/0323 - Amend overhead power line on wooden poles in order to provide high voltage underground cabling – No further details required May 2008.

9/2007/0551 - Outline application (all matters to be reserved) for the erection of a gastro public house at the proposed Mercia Marina – Approved October 2007.

9/2007/0550 - Outline application (all matters to be reserved) for the erection of 18 log cabin holiday lets – Approved October 2007.

9/2007/0470 - The creation of a 585 berth marina including a boatyard, chandlery and manager's office, tearooms, toilet blocks, boat hire and brokerage facilities and double dry dock. The erection of 18 log cabins to provide family group overnight tourist accommodation and the erection of a public house – approved - October 2007 – Approved 29th October 2007.

Responses to consultations and publicity

District Valuer

The above scheme assessed with regards to full planning policy requirement (comprising Section 106 Contribution totalling £120,574.64) is viable. The conclusion is that the proposed development, including two floors of apartments (i.e., 14 no. apartments) above, is necessary to make the development viable.

Highways England

No objection.

DCC Highway Authority

No comments received to date. Any comments will be reported verbally to the committee.

Environmental Health Officer

No comments to make or requested conditions.

Conservation Officer

Considers that the proposed development would result in no direct harm to the character and appearance of the Conservation Area. The development site is outside of the Conservation Area boundary.

In regard to potential impact to, the historic setting of the Trent & Mersey canal, the scale of the proposed development will create an altered roofscape within the existing environment, due to the three-storey height of the proposed buildings. This will have a degree of visibility

from the Trent & Mersey canal. However, far reaching views from the canal do not impact on the enjoyment and interpretation of the canal. The topography and mitigating landscaping features will soften the built form and views from the canal. It is also important to note the construction of the industrial canal through the landscape; now integrated to form a positive heritage feature. The proposed development shares a similar philosophy for the built form to utilise the historic waterway for modern use and enjoyment.

The existing development at Mercia Marina has provided a contemporary architectural solution, utilising the historic waterway as a modern commercial and tourism offer. The material palette is balanced in the setting, with large expanses of glazing providing for reflections, corresponding to the setting. It is my assessment that the proposed development to the site will result in no additional harm to the character and appearance of the Conservation Area, nor the understanding and interpretation of the historic waterway.

There is a county Historic Environment Record (HER) for the site, which details: Cropmark features were excavated in the 1990s prior to gravel extraction. They included Neolithic pits and Early Bronze Age ring gullies. I therefore suggest that any condition on the previous development of the marina is replicated in any approval.

Sustainable Travel Officer

No objections provided cycle parking includes Sheffield stands mounted securely onto / into the concrete floor.

Canal & River Trust

No objection but we request informative is added.

DCC Flood Risk Management

No objections subject to conditions.

Derbyshire Wildlife Trust

Advise that sufficient information regarding bats has been submitted to enable the Local Planning Authority to reach an informed decision in accordance with Circular 06/2005 and to discharge its duty in respect of the requirements of The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. Recommended that hedgehog precautionary measures are secured with any planning approval.

Landscape Officer

The Council's Landscape Officer has reviewed the proposal and whilst no objections have been raised further details have been requested including a 5 year Landscape and Ecology Management Plan (LEMP), Tree Protection Plan, a Landscape Planting Plan to include a plant schedule and planting specification amongst others.

Derbyshire County Council – Policy Officer

Considers the substantial scale and massing of the proposed new building to contain seven commercial units and fourteen residential apartments would not meet policy requirements to conserve and enhance landscape character and local distinctiveness. The residential element of the scheme represents housing development in a rural area where the development is not essential to a rural based activity, is not conversion of existing buildings and is not limited infill development. The proposal represents urbanisation of this site in this rural countryside area. The existing permitted permanent residential boat moorings cannot be viewed in the same context as the proposed new land based dwellings as the former is a type of accommodation only provided for on water bodies, requiring countryside locations. It is recognised that Mercia

Marina is an established tourist destination, however, the relevant local plan policy in respect of Tourism expects development to avoid undue impacts on the local landscape. As such it is considered that the proposal does not accord with national planning policies in the National Planning Policy Framework (NPPF) and the relevant policies of the SDDL1 and SDDL2 in respect of impact on the local landscape and rural residential development.

Derbyshire County Council – Landscape Officer

Concerned that this would have significant visual impacts from Findern Lane passing by the site to the south and potentially from wider viewpoints which could include the Trent & Mersey Canal Conservation Area. Whilst the architectural design is interesting, scale, is the main issue. At the present time other developments at Mercia Marina are contained at lower levels with the core of the main complex whereas this proposal will create a substantial new building adjacent to an exposed site boundary. The policy context for this development will be those contained in the SDDC Local Plan so it is with the LPA to determine whether this proposal meets with the relevant policies. Difficult to appreciate how this proposal would meet the requirement to conserve and enhance landscape character and local distinctiveness.

NHS Derby and Derbyshire Integrated Care Board

Would be able to use the £120,000 (approx.) on health projects within the area.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The development plan for the purposes of this application comprises the South Derbyshire Local Plan

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF10 (Tourism Development)

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE10 (Heritage), RTL1 (Retail Hierarchy)

Willington Neighbourhood Development Plan (draft form so limited weight given)

The relevant local guidance is:

Landscape Character of Derbyshire

Trent and Mersey Canal CA Character Statement 2014

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- Principle of the proposed development
- Impact upon the character and appearance of the area
- Heritage Impact
- Residential amenity
- Adequacy of parking and highway safety
- The effect of the proposal on biodiversity
- Flood Risk and Water Management
- Landscaping & Impact on Trees
- Developer Contributions
- Conclusion & Planning Balance

Planning assessment

The Proposed Development

The application seeks to build one new building to accommodate 7 no. commercial units at ground floor level with 2 floors of residential accommodation (14no. flats) above. The top floor is located within the roofspace of the building. The building will be constructed on previously developed land in place of the existing marina office, newsagent and tea-room buildings, which are to be removed. The footprint of the new building will be 1,109sq.m.

Principle of development

The site lies outside the settlement boundary and the site therefore lies within the open countryside. The development at Mercia Marina is a well established leisure and tourist business, that has grown steadily over the last number of years. Permission was first granted in 2007 for the Marina development which serves as a major tourist hub within the District which has been developed and expanded incrementally from its inception. The proposed building would be located on the southern corner of the marina site, near to Findern Lane. Currently on this plot there are three single storey buildings in use as the marina office, newsagent & toilets and tea-room. These will be demolished to make way for the proposed new building.

Commercial Element

The main policies to consider are E7, INF10 and RTL1 of the Local Plan.

Policy E7 supports rural development that will *diversify and expand the range of sustainable employment activities on land outside of settlement boundaries provided they support the social and economic needs of the rural communities in the District*. The policy further states the *Council will support the replacement of existing buildings and development of new buildings where i) it is supported by a sound business case; ii) the highway network can accommodate the traffic generated iii) development will not give rise to undue impacts on neighbouring land; iv) seeks good design that is commensurate with the proposed use and v) seeks to minimise visual intrusion and impact on the character of the locality*.

The Marina is an established tourist destination and Policy INF10: Tourism Development is also relevant. This policy presumes in favour of tourism development in appropriate locations (criterion ii)) where identified needs are not met by existing facilities. Part C of this policy expects new tourism development to be provided through the conversion or re-use of existing buildings; accommodation of a reversible and temporary nature, or sustainable and well

designed new buildings. Part D of the policy seeks to avoid undue impacts on the local landscape, natural environment or cultural heritage assets.

The proposed 7 commercial units (totalling 932sqm) will comprise food & drink and retail uses and the accompanying Economic Impact Assessment by SQW states without investment to refresh the assets and introduce new facilities, interest in the Marina, visitor numbers, and the associated economic benefits are likely to decline over time. The report estimates that the marina receives approximately 800,000 visitors annually and generates a total GVA of £18.8m for the local economy, including £9.1m in the local visitor economy. It also supports over 20 businesses including: 11 shops, 2 restaurants, 2 coffee houses, a bar, boutique retailers, lodges & boating activities, providing a total of 305 jobs on site and supporting a further 131 in the local area. It is recognised the new commercial units will help deliver more jobs and attract more visitors and thus increasing spending at the Marina and the local economy.

Policy RTL1 identifies Willington, the nearest village to the Marina, under category '*Other Centres in Key and Local Service Village*'. Criterion D of this policy seeks to permit retail development provided that: *i) It is appropriate with the scale and function of the Centre; and ii) It would not lead to unsustainable trip generation or undermine the vitality and viability of a neighbouring centre; and iii) It does not adversely impact on neighbouring properties.* The application is supported by a Retail Sequential Test which has assessed if there are any suitable alternative sites within the search area (key / local service villages of Willington, Findern, Repton, Etwall, Newton Solney) that are both sequentially preferable to the application site at Mercia Marina and reasonably available. The findings of the report established that there are no sites that meet the relevant criteria to be considered viable alternatives. Many of the allocated sites are too large and have been promoted (or granted planning permission) for alternative uses, typically housing. The existing retail units in each of the centres are largely in use. Where vacant units have been identified, these have been assessed and are not large enough to accommodate the quantum of development proposed at Mercia Marina. One of the main aims of the proposed development is to attract visitors to the marina which cannot be achieved via off site provision. Taking the above factors into account it is considered the proposed development has passed the sequential test and this location is the most appropriate for the commercial development put forward.

Residential Element

Outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5. Policy BNE5 manages development in rural areas and sets out a several criteria to assess such proposals. This includes;

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

Whilst the development would not accord with the criteria set out under Policy BNE5 above, the applicant has stated that the number of residential units proposed is necessary in order for the whole development to be considered financially viable.

To confirm this was correct the Council requested an independent review of the viability conclusion by a district valuer at the Valuation Officer Agency to ensure the assumptions made by the applicant can be relied upon to determine the viability of the scheme. The district valuer reviewed the financial information provided and provided their own Viability Assessment Report.

The conclusions of the report found the proposed scheme for 7 no. commercial units with 14 no. apartments on two floors above is viable. It is also concluded that a scheme incorporating 7 no. Commercial units needs to include two floors of apartments (i.e. 14 no. apartments) above, rather than a single floor with fewer apartments, in order for the scheme to be sufficiently viable to be developed.

Therefore, taking into account the conclusions from the independent viability assessment, whilst the proposal is not policy compliant and some conflict exists over the proposed residential development in this location, the number of units proposed, and the scale of the scheme are deemed necessary for the scheme to be considered viable and to secure the long term economic benefits from continuing to attract visitors to the area in accordance with the aims of Policy INF10.

For the reasons set out above on balance the proposed development would be considered acceptable in principle providing contributions for both community facilities and Health, are sought through a Section 106 Agreement.

Design

Policy BNE1 states that new development should be visually attractive, appropriate, respect important landscape, townscape and historic views and vistas, contribute to achieving continuity and enclosure within the street scene and possess a high standard of architectural and landscaping quality.

The proposed new building would be substantially larger than the existing 3 single storey buildings on site and would be clearly visible from Findern Lane. The proposed site would be completely reconfigured to accommodate the large building and whilst it would be considerably larger in both height and scale, the site could accommodate the larger building without it appearing unduly over dominant.

The proposed design is contemporary with large sections of glazing and a multi pitched roof. The walls would consist of a mixture of bespoke thermal timber cladding, grey facing stone and gun metal grey aluminium panels with the roof using rivendale slates. The proposed design and materials would be in keeping with the existing Boardwalk and Piazza buildings.

It is noted that the site drops down from the road with the larger buildings on the site at the lower level and therefore not clearly visible for any public vantage points outside the man marina complex. The building proposed as part of this application, whilst being a similar scale to other buildings within the site, would be located at the higher level and in closer proximity to the access to the site and to the Trent and Mersey Canal opposite.

As outlined in the section above, the proposed development is a substantial scale that will be clearly visible in the surrounding landscape. Taking into account the need for the size and scale from a financial viability standpoint, overall it is considered that the visual prominence of the building is mitigated by its high quality design, and the opportunity to assimilate it further into the wider landscape with a condition requiring additional planting to be undertaken along the site frontage. With these conditions it is not considered the proposed development would result in such a harmful impact to the character and appearance of the wider marina to warrant a refusal on design grounds. The development is considered high quality and responsive to

the surrounding development. Design details including materials and finishes will be secured as part of the planning conditions. The development would therefore be consistent with the requirements of policy BNE1 of the Local Plan and the Design Guide SPD and the overarching principles of the NPPF.

Impact on Heritage Assets

Policy BNE2 of the Local Plan expects development affecting the Districts heritage assets to protect, conserve and enhance such assets and their settings. Criterion B i) of this policy specifically refers to the Trent and Mersey Canal which sits approximately 80m south east from the new development.

The Conservation officer has assessed the potential impact on the Conservation Area, specifically views from, and potential impact to, the historic setting of the Trent & Mersey canal and has confirmed the proposed development would result in no additional harm to the character and appearance of the Conservation Area, nor the understanding and interpretation of the historic waterway. In addition the additional planting proposed along the site frontage will assist in assimilating the development into the wider landscape when viewed from the conservation area.

It is therefore concluded that the proposal would have no detrimental effects on heritage assets, and that the proposal would comply with policy BNE2 of the South Derbyshire Local Plan Part 1 2016 and policy BNE10 of the South Derbyshire Local Plan Part 2 2017.

Highways and access

Policies BNE1 and INF2 of the Local Plan stipulates that appropriate provision shall be made for safe and convenient access into and within development for pedestrians and private car users. New development should also seek to ensure a provision of on-site parking spaces for vehicles (including electric) and cycles and to maximise opportunities for passive/sustainable transport methods such as cycling and walking. A transport statement and travel plan have been submitted with the application.

No new access is proposed with the existing access arrangements at the marina to be utilised. The car parking in the immediate vicinity of the site will be reconfigured to accommodate the new development and there will be a net loss of 17 parking spaces within this area. Each apartment will be allocated 2 parking spaces each, with a further 10 provided for visitor parking and 2 wheelchair accessible spaces. Parking for the proposed commercial units will be accommodated within the existing car parks within the site. A parking assessment has been carried out confirming that the existing car park can accommodate the additional parking demand associated with the proposed development. It is therefore considered that the proposal is in accordance with Policy INF2.

Residential Amenity

Policy SD1 of the Local Plan stipulates that development should not lead to adverse impacts on the amenity of existing and future occupiers. The proposed development would overlook the moorings to the north of the site, however given their small nature and design it is not considered the new development would result in any harmful loss of light or loss privacy to the nearby moorings that would warrant a refusal in this instance.

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

The effect of the proposal on biodiversity

Policy BNE3: Biodiversity supports development which contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains to such. The application is supported by a Preliminary Ecological Appraisal Report and Bat Survey Report.

The Bat Survey Report outlines that a dusk emergence survey was carried out on the 3 buildings to be demolished and a second dawn survey of the furthest southwestern outbuilding. No bats were observed to emerge or re-enter the existing outbuildings; however, low commuting and foraging bat activity was recorded. Derbyshire Wildlife Trust therefore have no objections to the proposed scheme provided conditions are attached relating to Hedgehog Precautionary Measures (due to one being observed during survey work) and the submission of a Biodiversity Enhancement Plan to be approved prior to construction. These will be secured via condition. It is concluded that the proposal complies with policy BNE3 of the South Derbyshire Local Plan Part 1 2016.

Flood Risk and Water Management

The site is located in Flood Zone 1, the lowest level of flood risk, however with the increased level of commercial and residential development proposed on site it is important that water is managed effectively not to increase wider flood risk to the area. The most important policies to consider are SD2 and SD3 of the LP1 which between them seek that new development be prioritised to areas with the lowest risk of flooding and where sustainable surface and foul water management can be achieved in line with the expected hierarchy of consideration of connections. A Drainage Strategy Report was submitted with the application and it outlines that surface water and rainwater run-off from the proposed development will discharge to the marina basin directly. Foul drainage will flow into a nearby foul water attenuation tank and foul sewage will then be pumped to the Severn Trent Main Sewer.

The DCC Flood Risk Team have assessed the application and raise no objections subject to conditions including the submission and approval of a surface water drainage management and maintenance plan, a detailed assessment on surface water and drainage hierarchy, details on how surface water run-off will be avoided during construction and a verification report completed by a qualified drainage engineer. A limited water consumption condition will also be added to any approval of the development in line with policy SD3 of the LP1. Subject to conditions and informatives it is considered that the proposals are in compliance with the aforelisted policies and guidance in regards to flood risk and water management.

Landscaping & Impact on Trees

Policy BNE4 Landscape Character and Local Distinctiveness states that Developers will be expected to retain key valued landscape components such as mature trees, established hedgerows and topographical features within development sites unless it can be demonstrated that the loss of features will not give rise to unacceptable effects on local landscape character. Development that will have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted. Further to this Policy INF7 seeks to conserve, enhance and where possible extend Green infrastructure including trees within the District. The existing planting on the southern roadside boundary will be retained and enhanced to increase screening to/from the site and to enhance biodiversity also. Proposed low level planting will be placed between the new parking spaces which will help soften and break up the new hardstanding area. The Council's Landscape Officer has reviewed the proposal and has requested further details including a 5 year Landscape and Ecology Management Plan (LEMP), Tree Protection Plan, a Landscape Planting Plan to include a plant schedule and planting specification and details of boundary/fencing treatments to be used amongst others.

Whilst the comments of the County Council are noted, on balance it is considered that even allowing for the scale of the building, its design reflecting the buildings within the marina complex and the use of additional landscaping to be secured via condition results in a development with an acceptable impact on the wider landscape. Therefore, it is considered

that the proposals can with conditions, result in compliance with policies BNE1 and BNE4 of the LP1 and the Design SPD.

Developer Contributions

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.

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.

The Viability Assessment undertaken by the District Valuer concluded that Section 106 Contribution totalling 120,574.64 would be required. The applicant's viability consultant considered the viability to be lower than this stating the need for Section 106 Contributions of £56,103.70. This matter is expected to be resolved prior to the committee meeting and updates will be given to the committee.

Given the location and likely occupancy of the apartments it is considered appropriate to use the available S106 contributions for a combination of healthcare provision and additional community facilities. These matters therefore will need to be controlled by legal obligation under Section 106 of the Town and Country Planning Act (1990) (as amended). Financial contributions of £120,574.64 will be secured. There will also need to be a mechanism to ensure that the stated financial benefits for the long-term investments in the site will be realised.

Conclusion & Planning Balance

On balance it is acknowledged that the proposed development does not accord with Policy BNE5 in terms of appropriate development within a countryside location. However, it would form part of a larger marina development and is considered a tourist development under Policy INF10 which supports the growth of tourist attractions. Taking this into account and combined with the need for 14 residential units across 2 floor in order to make the development viable, the scheme would be considered acceptable in principle and in terms of visual and residential amenity it raises no major concerns.

For these reasons, on balance, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG.

It is therefore recommended that the application is approved subject to conditions and a legal agreement.

Equality Implications

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

A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report along with associated provisions for long term management of any public facilities provided; and

B. Subject to A, **Approve** the application subject to the following condition(s):

Standard Conditions

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

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

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

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

3. Site clearance shall be undertaken in a manner by which to safeguard hedgehogs. All rubble piles, leaf piles, flower pots, dense vegetation and other general debris that could be used for shelter shall be carefully cleared by hand to a location such as a skip, other container or raised pallets. This shall be undertaken prior to machinery entering site and avoiding the core hibernation period (November-February). If a hedgehog is discovered during clearance it shall be moved immediately and carefully with gloved hands to an area of shelter such as beneath nearby hedgerow/bushes. A short statement of compliance shall be submitted to the LPA upon completion of clearance works to discharge this condition.

Reason: Hedgehog is a Species of Principal Importance listed under Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act.

4. Prior to construction above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include, as a minimum, the installation of:

- 2x External or Integrated Swift Bricks
- 2x External or Integrated Bat Boxes

Such approved measures shall be implemented in full and maintained thereafter

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

5. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within a. Drainage Strategy Report for Madecorn Leisure LLP. New Mixed use Development Mercia Marina, Findern Lane, Willington, Derby, DE65 6DW. M-056 December 2021 including any subsequent amendments or updates to those

documents as approved by the Flood Risk Management Team” b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

6. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance and to obtain a full understanding of the springs within the site and any associated mitigation requirements.

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

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

And to ensure that development will be safe from flood risk including from groundwater and natural springs.

7. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

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

8. Prior to the first occupation of the development, 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 scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

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

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

10. Prior to the occupation of the building the following details shall be submitted to and approved in writing by the Local Planning Authority.
 - A. A Tree Protection Drawing, to include trees, hedgerows and scrub to be retained, removed and protected.
 - B. A detail of the tree protection fencing to be used.
 - C. A Landscape Planting Plan to include a plant schedule and planting specification.
 - D. House sparrow boxes and other bird boxes to be shown on the landscape plan.
 - E. Details of any boundary / fencing treatments to be used.
 - F. Details of any hard landscape.
 - G. A 5-year Landscape and Ecology Management Plan (LEMP).

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

11. 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 or extended without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

12. 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.

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

Informatives

- A. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.

Item No. 1.7

Ref. No. [DMPA/2022/1330](#)

Valid date: 30/09/2022

Applicant: Michael Baker

Proposal: Amended scheme to previously approved (DMPA/2021/0361) For the erection of an extension to the garage and alteration to roof on main dwelling including new roof lights and new rear dormer at 23 Skinners Way, Midway, Swadlincote, DE11 7NL

Ward: Midway

Reason for committee determination

Local concern has been raised about a particular issue.

The above application was presented to the Planning Committee on Tuesday 7th March 2023. Questions were asked in relation to the accuracy of the amended plans submitted by the applicant. Officers of the council attended a site visit on Monday 13th March to take photographs of the proposals as constructed. As well as photographs checks as to the accuracy of the amended plans were undertaken. This was done through measuring the brickwork. In reviewing the amended plans and the measurements taken on site the amended plans are considered to accurately reflect the amended plans submitted to remedy the breach of planning permission.

Site Description

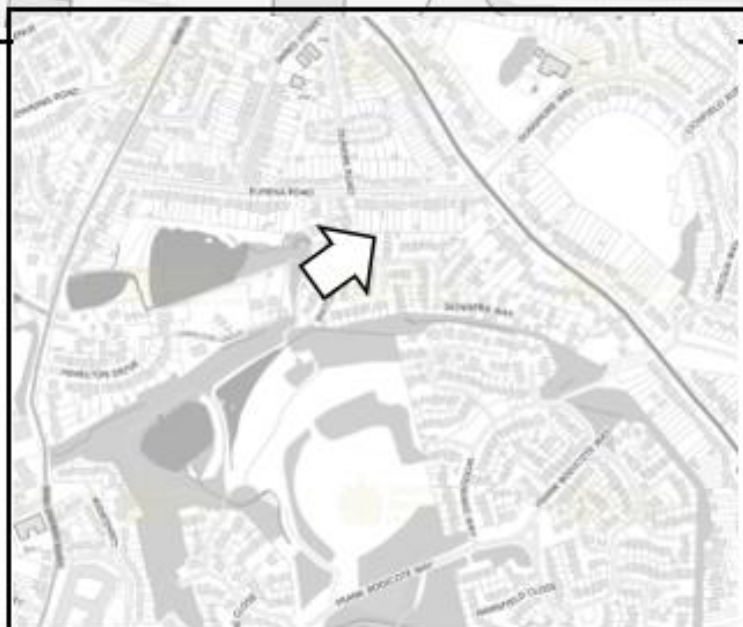
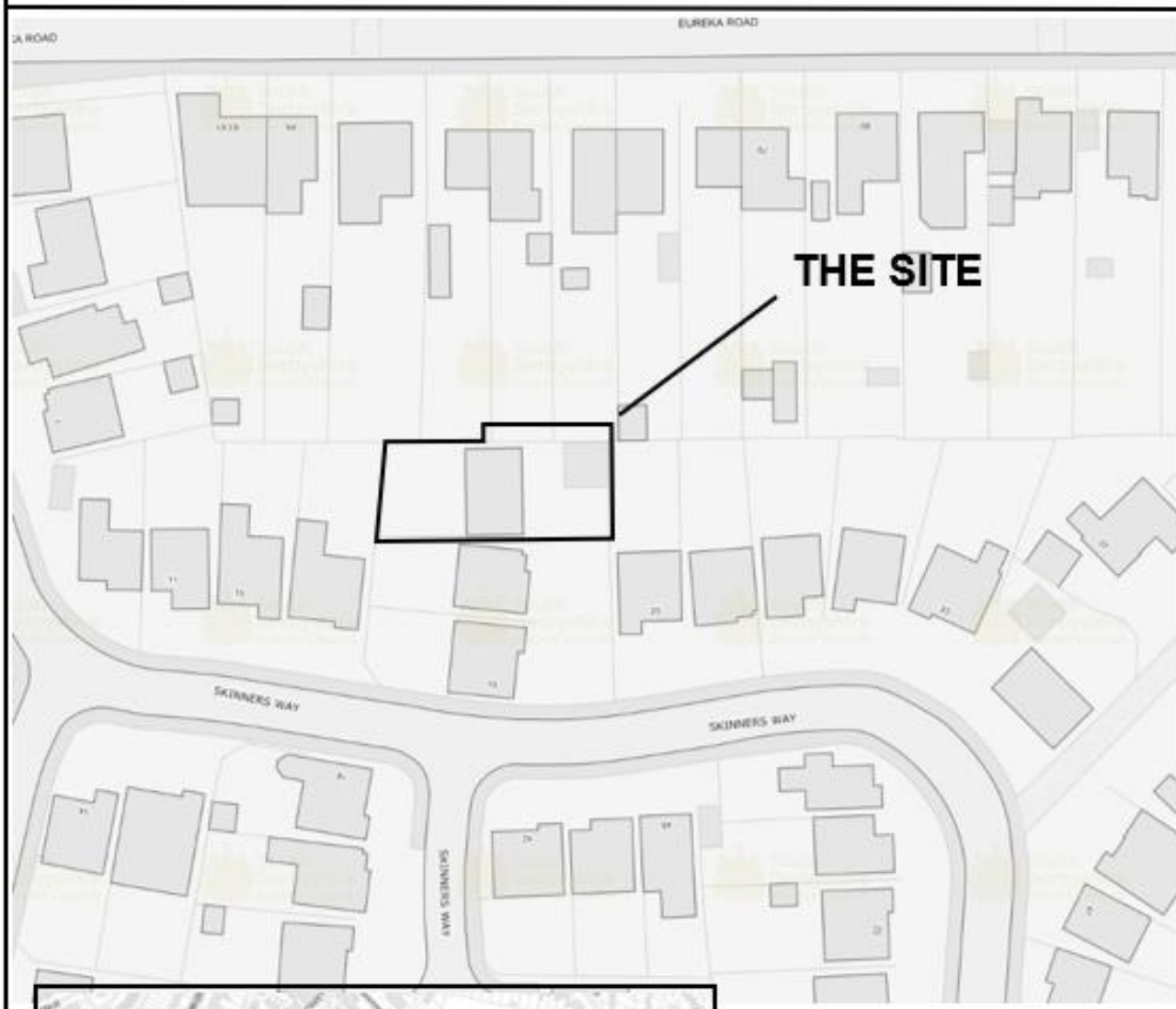
The applicant site is a detached built dwelling in the early 2000's, built in red brick within a cul de sac from the through road of the estate. The property is on a fairly modern estate and features a mix of house types. Most of the houses follow the usual relationship with the road/public realm (as in their front elevations being the most visually prominent). Some properties as in the case here sit at non-standard angles/right angles to the road, as here for example accessed off a private/shared drive. It could be considered that the application site has a more private situation and has a different relationship with the public realm. The application site is the last one in a cul de sac of three, the cul de sac book-ended by way of the existing double garage. Thereafter the house backs onto the sizeable rear gardens on Eureka Road.

The proposal

The proposal is for amendments to previously approved permission ref: DMPA/2022/0361 the amendments are;

- an additional roof light in the front elevation;
- proposed alteration in roof height;
- detached garage doors changed from three single doors to one double and one single door; and
- an additional roof light in the side elevation of the garage.

DMPA/2022/1330 – 23 Skinners Way, Midway, Swadlincote, DE11 7NL



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South Derbyshire District Council. LA 100019461.2020

Relevant planning history

9/1999/0710 - The erection of 53 houses together with associated access road and public open space - Approved 13.10.2000

DMPA/2021/0361 - The erection of an extension to the garage and alteration to roof on main dwelling including new roof lights and new rear dormer - Approved 27.4.2021

Applicant's supporting information

The applicant has submitted plans setting out the amendments for retrospective approval.

Responses to consultations and publicity

Public Representations

Six public representations have been received which can be summarised by the following points:

- a) The garage being extended to be used for repair of vehicles and running a business and cause lack of parking and unsociable hours. Inserting a car lift with the increased roof height.
- b) Garage not in keeping with the appearance of surrounding houses & would cause adjoining properties lack of privacy.
- c) Scaffolding was up for a long period of time and debris was falling onto neighbouring properties.
- d) Builders vehicles blocking access, problems with parking and increased traffic.
- e) Works being carried on without approved plans and builders working during the planning process.
- f) Noise levels and hours of working on a sunday for example.
- g) With the garage position and extension vehicles would be overhanging onto neighbouring driveways.
- h) Concerned about the height of the garage, asked if the increase in garage extend over 4 metres and 2.5 metres for the eaves height.
- i) Increased in height of ridge of new roof.
- j) With the original application querying if the detached garage floor level is at same datum as neighbours.
- k) The double detached garage forms part of boundary wall and loss of significant sunlight and daylight and causing overshadowing to property.
- l) The garage wall is on the boundary and a party wall.
- m) Concerned the garage may be altered later into residential dwelling. Representation visited site to discuss drainage
- n) Additional roof lights and windows in extension will be intrusive to neighbours and cause overlooking.
- o) Alterations with the plans the guttering/down pipe down side elevation into neighbouring garden, this will effect position and height of fence.
- p) Boundary fencing of neighbouring property is effected with the extension.
- q) Want to appeal against the approved planning DMPA/2021/0361.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material

considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence)

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H27 (Residential Extensions and other Householder Development)

The relevant national policy and guidance:

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

The relevant local guidance:

South Derbyshire Design Guide SPD (Design SPD)

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:

- Design;
- Amenity and
- Coal Mining Legacy

Planning assessment

Design

This is a resubmission application for amendments to previously approved scheme for an additional roof light in the extension front elevation, proposed alteration in roof height, amendments to the doors of the detached garage with the insertion of a roof light in the side elevation of the garage.

In relation to the proposed alteration in roof height, the plans have been assessed and compared to the approved scheme and the amended plans submitted (dwg no 1053_MB_PL_01A). The overall height has been reduced, with the measurement between the eaves and top of ridge has reduced by 0.2 metres (200mm).

The front projecting two storey gable has increased from 7.2 metres to 7.4 metres in height.

While there has been a change to the appearance of the roof from the approved plans, it has been reduced in overall height, with the front projecting gable slightly increasing. It is considered the amendments are minimal, that the design is acceptable and that the overall reduction in height would be acceptable having regard to the approved scheme.

With the additional roof light it is considered that this could be inserted under householder permitted development rights as there are no conditions, either on the original permission for the house or the later approved scheme which would remove these rights. It has been

assessed as it was inserted at the point the works were being undertaken and is shown on the plans. It is considered that the roof light is acceptable and would not cause any additional overlooking but would allow more sunlight into the stairway into the attic room.

Plans also show revisions to the detached garage these are altering the garage doors from 3 single to a double and single with a roof light in the side elevation. While these are additional amendments to the approved plans, they are cosmetic changes and are not considered to be unacceptable to the overall design of the garage.

Amenity

It is considered that with the amendments carried out and proposed would not cause any additional loss of overlooking or overbearing or lack of privacy as considered under the approved scheme.

The additional roof light in the front elevation is for the stairway in the attic room on the section of the amended plans this shows the height of the roof light at 4620 mm. It is considered that due to the height and position of the additional rooflight that this would not cause any additional overlooking or loss of privacy.

With the roof light in the detached garage, this is facing the applicant's property and any views would be towards the main dwelling.

Other Matters

In relation to the concerns raised in comments from neighbours, a number of the concerns raised are in relation to the original application that has been approved (DMPA/2021/0361) and issues raised at the time were dealt with at that time. This approved development is a material consideration, but it cannot be revisited as part of the consideration of this scheme.

There is no 3rd Party appeal process for approved schemes.

This following matters are included as part of this application as outlined in the report:-

Additional roof light in the extension of the dwelling, this ordinarily would be able to be carried out under Permitted development. As the roof light was inserted at the time the works to the roof were being undertaken and was an additional element not shown on the approved plans it has been assessed and considered acceptable due to the height and its positioning within the roof which is not considered to cause any additional overlooking or loss of privacy.

Proposed increase in roof height:- There has been alterations to the roof from the approved plans this has been assessed against the approved plans and the amendments proposed an overall reduction in the height of the roof with the front projecting gable being increased in height. The amendments are considered to be minimal with no significant impact on overall design or amenity and are therefore considered to be acceptable.

Additional roof light in the side elevation of the garage. As with the roof light in the extension this could be carried out under permitted development and with the siting of the roof light facing to the applicant's own property it is considered acceptable.

With works carried out without prior approval through the planning process, applications are allowed to be submitted retrospectively. Any works are undertaken at the owners risk and once the application is assessed, if it is not granted approval, enforcement action can be taken to remedy the breach, which in this instance would be building to the approved plans.

Concerns have been raised about builders vehicles blocking access, noise levels and hours of work - these matters if causing a statutory nuisance can be dealt with through other legislation. Indiscriminate parking is a matter for the police.

Coal Mining Legacy

The site falls within an area identified as High Risk in regards Coal Mining Impacts. The relevant Coal Authority informative should be included on any grant of planning permission.

Conclusion

Planning permission has been granted for extensions to the property under reference DMPA/2021/0361. There have been amendments made to the approved scheme during construction and this application seeks to regulate the unauthorised works as set out in the report. The application should not revisit the principle of the approved works but consider the amendments between the approved scheme and that considered under this application.

With this in mind it is considered that the proposals would not result in any significant additional overlooking or overbearance to the occupants of any neighbouring properties and all amendments to the design of the overall scheme are 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 hereby approved shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in accordance with the plans referenced:- Proposed elevations, floor plans and sections (dwg 1053_MB_PL_01A) received 18th January 2023; 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.

