

REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)

SECTION 1: Planning Applications

SECTION 2: Appeals

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

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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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.

Item **1.1**

Ref. No. **9/2017/0524/RSD**

Applicant:
Mr J Ottewell
c/o Agent

Agent:
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Copesticks
39 Tudor Hill
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B73 6BE

Proposal: **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE & LANDSCAPING FOR THE ERECTION OF 17 DWELLINGS UNDER OUTLINE PERMISSION REF. 9/2014/0287 ON LAND AT SK3925 1974 EAST OF STATION ROAD MELBOURNE DERBY**

Ward: **Melbourne**

Valid Date **19/05/2017**

Reason for committee determination

This item is presented to Committee as the application is for a major development and more than two representations have been received.

Introduction

This report has been prepared for two separate applications, both for approval of reserved matters on land at Station Road, Melbourne. The development is split in to two phases:

- Phase 1 relates to the reserved matters application 9/2017/0524 granted outline permission (including access) under 9/2014/0287 for 22 dwellings;
- Phase 2 relates to the reserved matters application 9/2017/0525 granted outline permission under (including access) 9/2015/0119 for 24 dwellings.

Site Description

The site is located to the eastern side of Melbourne to the south of Station Road and adjacent to the Sweet Leys Way development. Overall the site extends to 2ha, phase 1 relates to a 0.8 hectare site directly adjacent to existing dwellings and phase 2 is 1.2 ha site. The site is currently rough grassland, with a 2/3m high hedge forming the sites boundary to Station Road, the Carr Brook runs along the southern boundary of the sites. A drainage ditch runs along the western boundary of the site

9/2017/0524 - Land at SK3925 1974, East of Station Road, Melbourne, Derby
(DE73 8BQ)



in-between the site and the development on Sweet Leys Way, with a further ditch to the centre of the site which splits phases 1 and 2.

The site is generally square and slopes to the south east and surrounding land rises again at the boundary with Carr Brook.

The whole site is allocated for residential development within the Local Plan Part 2 under policy H23D and is included within the Melbourne settlement boundary as identified within the Local Plan Part 2.

Proposal

Following the granting of outline permissions for the site, it is proposed to erect a total of 40 dwellings on the site. Both applications are for the reserved matters approval for layout, scale, appearance and landscaping:

- Phase 1 accounts for 17 dwellings, with a mix of dwelling types, size and tenure. 2 x 2 bed dwellings, 11 x 3 bed dwellings, 2 x 4 bed dwellings, and 1 x 5 bed dwelling, proposed with 30 % affordable housing provision (5 dwellings).
- Phase 2 proposes 23 dwellings, again with a mix of dwelling type, size and tenure. 4 x 2 bed dwellings (including an adapted dwelling providing a ground floor bedroom), 16 x 3 bed dwellings, and 3 x 4 bed dwellings, proposed with 30 % affordable housing provision (7 dwellings).

A single estate road would serve the development, accessed from Station Road and creating an access point through the existing hedge (noting that the point of access was approved at the outline stage), with the main access road curving through the site. A minimum of 2 parking spaces per dwelling would be provided. Drainage for each of the phases is proposed in the form of two separate basins to the southern side of the site in-between the development and the Carr Brook with an area of Public Open Space (POS) surrounding the Sustainable Drainage Systems (SuDS) on phase 2. Phase 1 includes the provision of a play area for children and young people as required by the Section 106 Agreement.

Applicant's supporting information

The Design Statement sets out the background to the proposed site layout, acknowledging the difference in levels between Station Road and the Carr Brook. The sensitivity of the site drainage is noted and a sustainable drainage strategy is proposed to ensure no additional surface water run-off from the site and to protect existing residents. The existing drainage channels are to be retained with 'no build zones' implemented along their length. The development as a whole is proposed with a single access point from Station Road. The existing hedgerows to the sites boundary with Station Road and to the south west (to the existing Davidsons site) are proposed to be retained and enhanced to provide screening and a wildlife corridor. The overall design of the dwellings is considered to reflect the varied character of Melbourne.

Planning History

- 9/2014/0287 Outline application (all matters except for access to be reserved) for the residential development of 22 dwellings with associated open space and highways works. Approved 13 March 2015. (Phase 1)
- 9/2015/0119 The erection of 24 dwellings with associated infrastructure and landscaped open space. Outline permission with all matters except for access reserved. Approved 23 May 2016. (Phase 2)

Responses to Consultations

Due to the intrinsically linked nature of the applications the consultation responses for both applications have been summarised below.

The Highway Authority does not consider that the impact of the development would be such that would justify refusal, and therefore subject to conditions there are no objections from a highway safety perspective. It needs to be noted that the original outline permissions considered access as a reserved matter and attached the conditions considered relevant to access at the time. It is therefore not proposed to repeat those conditions.

The Strategic Housing Manager is content with the scheme and the proposed affordable housing across the two phases of development, subject to revisions to the Section 106 to secure the affordable housing levels and mix of dwelling types.

Derbyshire Wildlife Trust has no objection to the submission, and note that the submitted Ecological Design Strategy and Management Plan would be sufficient to discharge conditions 8 and 9 of the outline permission.

The Environment Agency has no objections.

The Lead Local Flood Authority (LLFA) has been involved in the site for some time in acknowledgement of the current and historic flooding problems in this area of Melbourne. As the drainage conditions attached to the outline permission will need to be discharged with a detailed drainage scheme, the LLFA does not intend to comment but note that their preference would be for the gradient of the detention basins to be 1 in 4 rather than the 1 in 3 detailed in the submitted information.

Severn Trent Water has no objection subject to the imposition of a drainage related condition. No conditions have been imposed as the drainage related matters and conditions are attached to the outline permissions.

East Midlands Airport has no objection to the proposal but recommend a condition requiring the submission of a 'Bird Hazard Management Plan', and an informative advising that the use of cranes will require a permit from EMA.

Responses to Publicity

Melbourne Parish Council has no objection.

Melbourne Civic Society made the following comments on the original submission;

- i) There is little to inspire here and the layout is pedestrian. The house designs aren't imaginative, show no flair, and won't win any design awards.
- ii) We do insist, however, that the developer uses a variety of brick and tile colours, and NOT use the same bricks throughout as they have at their recent Church Street and Ashby Road developments.
- iii) The adjacent Davidsons development has a path along the side of Car Brook, pleasant but rather constrained. There is now the opportunity to continue this path into and through these new developments. It would need access through the separating field hedge and a bridge across the small stream to link Davidsons to new development then a path along Car Brook, sweeping round to a pedestrian exit onto Station Road. As most of this will be a grassed area it doesn't even need to be a made up path. SDDC has adopted the public areas of the Davidsons estate, so this could be arranged by the developer and SDDC. It seems to us that this would offer another amenity to Melbourne, and not doing it would be a missed opportunity.
- iv) With the overall flooding problems in Melbourne permeable drives and hard-standing should be adopted as a standard for all new development in Melbourne.
- v) Following the receipt of amended plans the Civic Society comment on their like for the addition of the footpath though the two phases.

Councillor Harrison has commented that he is pleased to see the SuDS concerns have been addressed but would like to see these areas suitably fenced particularly noting the children's play area.

6 letters have been received from 4 individuals responding to the proposals, raising the following concerns/points:

- a) Support the development but would like to see the highways S106 contribution used to improve the school crossing on Station Road and slow down traffic;
- b) Landscaping to the existing Davidsons Site should be enhanced to ensure existing properties amenity is protected / enhanced;
- c) Impacts on amenity though overbearing, loss of light and overlooking;
- d) Concerns about the site drainage and the existing problems with flash flooding on the site.
- e) The Carr Brook should be cleared, with the ditch to the east dredged and fenced appropriately;
- f) There should be no access route back to Station Road from the north of the site.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); H20 (Housing Balance); H21 (Affordable Housing); BNE1 (Design Excellence); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); H23 (Non-Strategic Housing Allocations) and BNE7 (Trees, Woodland and Hedgerows).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Section 106 Agreements – A guide for Developers
- Affordable Housing SPD

Planning Considerations

The principle of development on the site was established through the granting of the 2014 and 2015 outline permissions. The parameters for the development of the site being set by these decisions and their associated Section 106 Agreements, including the provision and delivery of affordable housing, public open space (POS) ecology and consideration of highway safety. Consideration of these two applications therefore needs to be based upon the reserved matters applied for; layout, appearance, scale, and landscaping.

In addition, following the approval of the outline permissions the site benefits from an allocation for development under policy H23D of the Local Plan Part 2 (LP2), the policy details the following site specifics:

- Around 46 dwellings;
- Pedestrian access to be made to the adjacent Sweet Leys Estate;
- Enhance the existing hedgerow boundaries except for access requirements;
- A landscape buffer will be implemented and enhanced to the northern and eastern boundaries of the site; and
- No development within the part of the site subject to flood risk from the Carr Brook.

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

- Layout and landscaping;
- Appearance and scale; and
- Other matters

Planning Assessment

Layout and landscaping

The layout of the site (for both phases), has been the subject of detailed negotiations with the applicant and the Council's Design Excellence Officer and has resulted in the submitted schemes. The amendments have primarily related to the layout of the dwellings and their interaction with key spaces throughout the site.

Vehicular access into the site from Station Road was considered in detail at the time of the approval of the outline applications and its position to the north-west of the site was fixed at that stage. This single access point serves the whole development, which follows the alignment of the access point before curving to the east and forking off over a brook to serve phase 2. The alignment of the proposed dwellings generally follow the access road, with three private cul-de-sacs proposed within the development. POS is proposed along the southern boundary of the site adjacent to the Carr Brook along with the proposed SuDS features. The POS and SuDS features are located within this area of the site due to its proximity to the Carr Brook and the increased risk of flooding in this area, this enables the development to comply with the requirements of H23D.

In accordance with the requirements of policy H23D the existing hedgerow to Station Road is to be retained save for the approved access point, with the proposed dwellings set behind the hedgerow. The layout fronting Station Road provides for a key dwelling to announce the site access in a similar vein to the adjacent Sweet Leys Way estate in mind, with the other dwellings fronting Station Road proposed with hipped roofs to reduce their impact. The built form then loosens to the north east along Station Road and along the eastern boundary of the site as you leave the village with dwellings set well-back behind the hedge (which is set at a higher level than site itself) helping the development to integrate appropriately with the countryside beyond the site and also provide the opportunity for enhancing these boundaries as a landscape buffer required by the policy, which would be subject to a suitably worded landscaping condition.

The dwellings are sited in order to provide an outward facing development, addressing the internal access roads and the areas of proposed POS, such that the layout follows good urban design principles of providing active frontages (including providing dual fronted dwellings rather than blank elevations fronting the street). Generally the development is considered to provide a well-spaced and laid out development with space about dwellings to provide an informal layout with pockets of landscaping to the dwelling frontages and in incidental spaces in-between dwellings and the highway including where boundary walls are drawn back from the back of the footway.

This layout provides for a mix of dwelling types and tenures reflecting the needs of the District with those dwellings fronting the main access road proposed with parking in-between them to break up the built frontages and also provide for dwellings rather than cars at prominent areas of the site. A mix of parking solutions assists in reducing the dominance of parked vehicles to private frontages, with a minimum of 2

spaces per dwelling provided for the 2 – 3 bed units, and three spaces provided for each of the 4 and 5 bed dwellings proposed. In addition, where parking spaces are proposed adjacent to one another these are separated by a low hedgerow with an extra 0.5m width where the spaces abut a hard boundary (such as the dwellings themselves). The County Highway Authority raises no objections to the layout which accords with the design guidance, and suitable provision for bin collection is made.

The site contains two ditches (drainage channels) which run north-west to south-east from Station Road down to the Carr Brook, which restrict the developable area of the site and require the provision of easements either side of them create 'green fingers' through the development which provide areas of amenity and biodiversity value through the site and would form part of the Landscape and Ecological Management Plan required by the outline permission. These areas also provide a buffer to the existing Sweet Leys Way development.

A key driver in the layout of the site and the proposed pedestrian links is to ensure that this development integrates with the existing community and that the drainage channels do not inhibit pedestrian movement not only between the two phases but also between the site and the adjacent Sweet Leys Way. This requirement is enshrined within the requirements of the policy which allocates the site for residential development. The access road though the site crosses the drainage channel to provide a vehicular link and pedestrian bridges are proposed to link the two phases of the development within the POS to the south, and also between phase 1 and Sweet Leys Way. The provision of a bridge link between phases 1 and 2 is achievable through these applications with a linked condition to ensure the delivery of the bridge. However, the provision and delivery of a bridge between phase 1 and Sweet Leys Way requires the provision of infrastructure on land outside the application site, albeit that the POS within the Sweet Leys Way estate has now been adopted by the Council. To this end it is proposed that the delivery of the bridge is linked to the development through the proposed Deed of Variation to the original Section 106 Agreement (required for affordable housing reasons discussed below) and any recommendation on the phase 1 scheme should be subject to the completion of such a Deed. The provision of such a link is supported by Melbourne Civic Society.

The quantum of POS for each phase and the provision of a play area for children and young people within phase 1 is a requirement of the outline permission. The design ethos for the POS and play area would be to provide an informal area with natural play features reflecting the sites location close to the countryside beyond, helping to preserve the 'green' feel of this part of the site.

The site layout, due to its separation from the development on Sweet Leys Way – partly as required by the drainage ditch easement, has ensured that the impact of the development on existing residents is minimised. The closest direct overlooking potential between the proposed and existing dwellings is a minimum of 28m, some 7m in excess of the Councils adopted standards. Any perceived overlooking or overshadowing is further reduced by existing intervening vegetation along the existing drainage ditch and as such the proposed development is not considered to result in significant overlooking or overshadowing.

Overall the proposed layout and landscaping is considered to be an appropriate response to developing the site taking into account the existing natural features of the site and the surrounding area, and ensuring an attractive development is provided (subject to detailed conditions). The proposal in terms of its layout is therefore considered to comply with the requirements of policies BNE1, BNE3, BNE4, BNE7 and H23D.

Appearance and scale

This area of Melbourne, outside the Conservation Area, is characterised by a mix of dwelling types, sizes and ages resulting in there being no distinctive design characteristics to directly guide the appearance or scale of the proposed dwellings. The development itself would be visible from Station Road as you leave the village, but is somewhat screened due to it being set lower than Station Road itself and the existing hedgerow along Station Road which is to be retained in a similar vein to the adjacent Sweet Leys Way development.

The house types proposed reflect those characteristic of the more traditional areas of Melbourne (including within the Conservation Area) and include a variety of ridge and eaves heights, overall designs and mass. The house types themselves are simple in their traditional detailing (reflective of Melbourne itself) with accommodation provided within the roof, eyebrow dormer detailing, simple traditional canopies, and a mix of cill and lintel detailing. The mix of house styles and scales helps to create a locally distinctive development which responds to local character whilst providing its own identity. Feature properties set in prominent locations provide good reference points in the development with additional windows proposed in side elevations where these front the street to provide good natural surveillance. Whilst the site is set lower than Station Road, the site is not flat and in order to ensure that development platforms are considered appropriately a levels condition is considered necessary and is recommended accordingly. Generally the appearance and scale of the development is considered to be visually attractive with a locally inspired character and as such complies with the requirements of policy BNE1 and the guidance contained within the South Derbyshire Design SPD.

Other matters

Affordable housing: the phase 1 Section 106 Agreement specified the precise mix of affordable homes required on the site, whereas the affordable housing requirement on phase 2 is required by condition. The phase 1 Section 106 Agreement required the delivery of (amongst other affordable solutions) a 1 bedroom wheelchair accessible bungalow. However, due to the size of phase 1 compared to phase 2 the applicants have requested that this requirement be removed and a suitable dwelling provided on phase 2. Following discussions with the Strategic Housing Manager, this is deemed to be acceptable but subject to the requirement that the 1 bedroom bungalow originally required is replaced with a 2 bed bungalow with a ground floor accessible bedroom in order to meet the needs of families with special care requirements. Therefore the recommendation for phase 1 needs to be subject to the completion of a Deed of Variation to vary this element of the Original Section 106 Agreement.

Flooding: whilst it is acknowledged there are existing drainage problems in Melbourne particularly in this location, the specific requirements of the drainage scheme (both surface and foul) will need to be provided to discharge the relevant outline conditions. It is known that the applicants have engaged with the LLFA and Severn Trent Water in order to develop the drainage strategy for the site prior to designing this scheme. In the interim the existing drainage ditches within the site and the Carr Brook itself have been cleared of debris by the applicant in order to alleviate the existing drainage issues in this area as much as possible. The SuDS features are located close to the play area and as such it is important to ensure that the SuDS are appropriately safe and fenced off and this matter will need to be considered through the discharge of the relevant outline condition for boundary treatments. The SuDS ponds are positioned adjacent to the Carr Brook in order to function correctly by retaining surface water from the site before it is discharged at an appropriate rate in to the Brook.

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

Recommendation

- A.** That the Committee delegates authority to the Planning Services Manager to conclude the Deed of Variation to the existing Section 106 Agreement in pursuit of the provisions as set out in the planning assessment above;
- B.** Subject to A, **GRANT** permission subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the schedule of drawings for Phase 1 dated the 4 July 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt and in the interests of sustainable development.
 2. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging that these details need to be approved prior to the commencement of initial ground works.
 3. The applicant shall submit a Bird Management Plan (BMP) prior to any development commencing on site detailing the construction and operational phases, which will be approved by the Local Planning Authority though consultation with East Midlands Airport. The Bird Management Plan is to be implemented as approved.

Reason: To reduce the attractiveness of potential feeding, nesting, breeding and roosting opportunities for hazardous bird species in the vicinity of the Airport in order to avoid the interception of bird and aircraft flight lines in the interest of aviation safety.

4. 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 further boundary treatments shall erected forward the walls and or fences detailed on the approved drawing or as approved under condition 7 of the outline permission for the site.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

5. Prior to the first use of the development a scheme of landscaping (both soft and hard including kerb heights for the block paved areas which shall be a maximum of 25mm) shall be submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

7. 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) the windows and doors including the reveal, material and finish;
- (b) the eaves, verges, cills and lintels;
- (c) rainwater goods including their method of fixing;
- (d) any retaining structures; and
- (e) canopies.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

8. Prior to the first occupation of the development precise details of the pedestrian link between phased 1 and 2 (applications 9/2017/0524 and 9/2017/0525) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance

with the approved details prior to the first occupation of the development or in accordance with a previously agreed scheme for its installation.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

9. Notwithstanding the submitted drawings, any access (vehicular or pedestrian) to an individual dwelling shall be via the new estate street, no dwelling hereby permitted, shall take direct access from Station Road.

Reason: In the interests of highway safety and to avoid drivers parking vehicles on the classified Station Road rather than driveways and within the residential estate.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the undercroft parking for plots 6 and 7 shall not be enclosed other than allowed for by the drawings hereby approved, and all car ports and parking spaces to be provided in connection with the development 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.

11. Notwithstanding the submitted drawings, no building shall be constructed within 450mm of the adoptable highway.

Reason: In the interests of safety to avoid any part of the building, open window or similar overhanging the public highway and causing an obstruction.

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

Reason: In the interests of highway safety.

Informatives:

1. The applicant is advised to note the and act upon as necessary the requirements of the outline conditions and Section 106 Agreement, which relate relating to matters including the delivery of affordable housing, open space, drainage, contamination, highway works and ecology.
2. Cranes, whilst they are temporary, can be a hazard to air safety. The developer or crane operator must therefore contact East Midlands Airport using the details provided below, at least 21 days in advance of intending to erect a crane or other tall construction equipment on the site. This is to obtain a Tall Equipment Permit and to ascertain if any operating restrictions would be required. Any operating restrictions that are subsequently imposed by East Midlands Airport must be fully complied with.
3. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet

the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.

4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.
5. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.
6. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

17/07/2018

Item 1.2

Ref. No. 9/2017/0525/RSD

Applicant:
Mr J Ottewell
c/o Agent

Agent:
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B73 6BE

Proposal: APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE & LANDSCAPING FOR THE ERECTION OF 23 DWELLINGS UNDER OUTLINE PERMISSION REF. 9/2015/0119 ON LAND AT SK3925 1974 EAST OF STATION ROAD MELBOURNE DERBY

Ward: Melbourne

Valid Date 19/05/2017

This reserved matters application is for phase 2 of the development on Station Road, Melbourne. The merits of the case are examined in the companion application for reserved matters application for phase 1 of the development under 9/2017/0524 above.

Recommendation

GRANT permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the schedule of drawings for Phase 2 dated the 4 July 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

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

Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging that these details need to be approved prior to the commencement of initial ground works.

3. The applicant shall submit a Bird Management Plan (BMP) prior to any development commencing on site detailing the construction and operational phases, which will be approved by the Local Planning Authority through consultation with East Midlands Airport. The Bird Management Plan is to be implemented as approved.

Reason: To reduce the attractiveness of potential feeding, nesting, breeding and roosting opportunities for hazardous bird species in the vicinity of the Airport in order to avoid the interception of bird and aircraft flight lines in the interest of aviation safety.

4. 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 further boundary treatments shall be erected forward of the walls and or fences detailed on the approved drawing or as approved under condition 7 of the outline permission for the site.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

5. Prior to the first use of the development a scheme of landscaping (both soft and hard including kerb heights for the block paved areas which shall be a maximum of 25mm) shall be submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

7. 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) the windows and doors including the reveal, material and finish;
- (b) the eaves, verges, cills and lintels;
- (c) rainwater goods including their method of fixing;
- (d) any retaining structures; and
- (e) canopies.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

8. Prior to the first occupation of the development precise details of the pedestrian link between phased 1 and 2 (applications 9/2017/0524 and 9/2017/0525) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the development or in accordance with a previously agreed scheme for its installation.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

9. Notwithstanding the submitted drawings, any access (vehicular or pedestrian) to an individual dwelling shall be via the new estate street, no dwelling hereby permitted, shall take direct access from Station Road.

Reason: In the interests of highway safety and to avoid drivers parking vehicles on the classified Station Road rather than driveways and within the residential estate.

10. Prior to the first occupation of any dwelling hereby permitted, the existing field gate and access into the site from Station Road shall be permanently stopped up and reinstated as footway, laid out and constructed in accordance with a Derbyshire County Council's specification for adopted highways.

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 measures to close off the access shall be retained as approved throughout the lifetime of the development.

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

11. Prior to the first occupation of any dwelling hereby permitted served off a shared private drive, bin stores shall be provided on private land in close proximity to the highway for use on refuse collection day and maintained throughout the life of the development free of any impediment to their designated use.

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

12. Notwithstanding the submitted drawings, no building shall be constructed within 450mm of the adoptable highway to avoid any part of the building, open window or similar overhanging the public highway and causing an obstruction.

Reason: In the interests of safety to avoid any part of the building, open window or similar overhanging the public highway and causing an obstruction.

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

Reason: In the interests of highway safety.

Informatives:

1. The applicant is advised to note the and act upon as necessary the requirements of the outline conditions and Section 106 Agreement, which relate relating to matters including the delivery of affordable housing, open space, drainage, contamination, highway works and ecology.
2. Cranes, whilst they are temporary, can be a hazard to air safety. The developer or crane operator must therefore contact East Midlands Airport using the details provided below, at least 21 days in advance of intending to erect a crane or other tall construction equipment on the site. This is to obtain a Tall Equipment Permit and to ascertain if any operating restrictions would be required. Any operating restrictions that are subsequently imposed by East Midlands Airport must be fully complied with.
3. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.
4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.
5. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of

full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.

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

Item **1.3**

Ref. No. **9/2018/0224/MR**

Applicant:
Mrs H Thompson
40 Blueberry Way
Woodville
Swadlincote
DE11 7GX

Agent:
Mrs Janet Hodson
JVH Town Planning Consultants Ltd
Houndhill Courtway
Houndhill
Marchinton
ST14 8LN

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 20 DWELLINGS ON LAND TO THE REAR OF ORCHARD STREET NEWHALL SWADLINCOTE**

Ward: **Newhall & Stanton**

Valid Date **23/02/2018**

Reason for committee determination

The item is presented to Committee as the Council own part of the site.

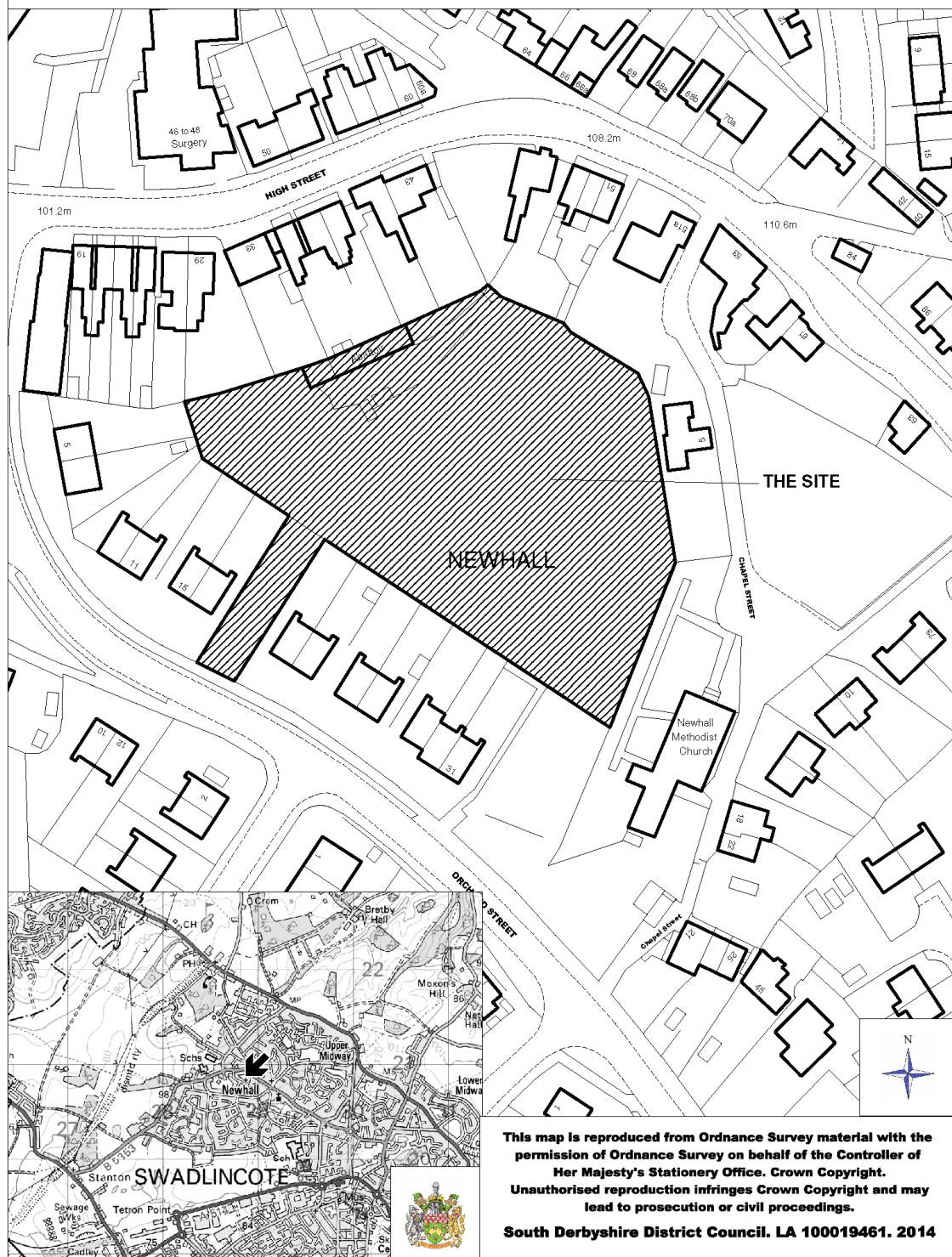
Site Description

This 0.56 Ha site lies to the rear of the semi-detached dwellings on Orchard Street, Newhall. It is currently used as a paddock for horses with existing stables on the north western corner, but was formerly an abattoir in association with a butchers shop on High Street. The Grade II listed Newhall Methodist Chapel bounds the site to the south east. The majority of boundaries are enclosed by 1-2m high hedging with some properties on the northern boundary having 2m high fencing and a retaining wall. The site slopes down from the north east with a difference in levels of 5m between this boundary and the south western boundary. The Orchard Street road level is 3m lower than the boundary to the rear of the existing dwellings to the north east.

Proposal

Outline permission is sought with access to be agreed and all other matters reserved for 20 dwellings. The land between 17 and 19 Orchard Street is proposed for the access to the site and this land is owned by the Council together with land adjacent to southern corner of the site. The indicative layout shows a mix of terraced, semi-detached and detached properties which curve around the site's boundaries with a central turning area.

**9/2018/0224 - Land to the rear of Orchard Street, Newhall, Swadlincote
DE11 0JS**



Applicant's supporting information

A Design and Access Statement describes the site and the proposal together with the scale, mass and density. It summarises the planning policy and the site's sustainability credentials, concluding the site is deliverable, achievable and suitable. The statement includes an assessment of the impact on the setting of the Listed Chapel, concluding that due to the location of the principle elevation and indicative layout the asset would be safeguarded from harm.

A speed survey is included as an appendix indicating overall vehicles speeds to be below 30mph.

A Coal Mining Risk Assessment concludes that the risk of un-recorded shallow workings is high and un-recorded main entries to be moderate with all other risks to be negligible. Probe holes are recommended to investigate ground conditions.

A Phase I Site Appraisal recommends a Phase II ground investigation be undertaken due to the site's former use as an abattoir.

A Flood Risk Assessment states the site is within Flood Zone 1 and as the site will increase the impermeable area on-site mitigation in the form of infiltration or positive outfall are recommended.

An Ecology Report concluded that the habitats found on site are common and widespread, and no notable plant species were observed during the survey. The site does support nesting birds and the existing buildings on site have the potential to support bats which are both protected species and as such further surveys are required in terms of bats and mitigation in relation to birds.

A Bat Activity Report confirms that the buildings are not used by bats and the proposal would not result in the loss of foraging habitat and as such no mitigation is proposed.

Planning History

None relevant.

Responses to Consultations

The Highway Authority has no objection subject to conditions relating to the temporary access for construction, construction compound, wheel washing, construction management plan, internal layout of the road, construction details of the roads and footways, construction of the carriageways and footways, access, parking, surface water onto the highway and construction details for adoption.

The Coal Authority has no objections subject to an intrusive site investigation condition.

The Environmental Health Officer has no objection subject to conditions in relation to noise, air quality and phased contamination.

The Council's Property Services Manager confirms that the access land between 17 and 19 Orchard Street is owned by the Council's HRA and the relevant committee would have to determine if the land was surplus and can be made available for the access. The Council's HRA also own land to the south east of 31 Orchard Street. The applicant is therefore advised to liaise with the Council.

The Police Force Designing Out Crime Officer has no objections.

Severn Trent Water has no objection subject to a drainage condition.

The Education Authority has considered impacts in relation to the capacity of local schools and has confirmed that Newhall Infant School, Newhall Junior School and William Allitt School would have sufficient capacity to accommodate the 2 infant, 2 junior and 3 secondary pupils arising from the proposed development.

The Local Lead Flood Authority has no objection subject to conditions in respect of surface water drainage.

The National Forest Company states that as there is no opportunity to accommodate tree planting within the site a financial contribution of £3,850 is required.

The NHS had not commented at the time of writing the report. If a response is received in time, a verbal update shall be given at the meeting.

Derbyshire Wildlife Trust has considered the Ecology Survey submitted which considered one of the existing buildings on site to have moderate potential for roosting bats and recommended further survey work. The Activity Survey for bats has been undertaken in accordance with current best practice guidance and no bats were identified entering or emerging from the buildings. Sufficient information in respect of protected species has been provided and conditions in respect of enhancement measures and site clearance during the bird nesting season are recommended.

Responses to Publicity

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

- g) The proposal would damage the boundary wall with 5 Chapel Street which is around 130 years old and should be retained.
- h) The proposal would overlook 5 Chapel Street.
- i) Bats have been seen in the area.
- j) Loss of open green space.
- k) It will add to the strain on existing schools, roads and doctors.
- l) The increase in traffic will impact upon the already busy junction onto High Street where parked cars already make it dangerous for school children crossing the road.
- m) The local schools are already struggling in terms of quality of education and with extra pupils this would put a greater strain on them.
- n) Adequate parking is not shown and may result in on-street parking on Orchard Street.

- o) It would result in the loss of wildlife such as bats, birds and foxes.
- p) Noise and lighting should be sympathetic to bats.
- q) The houses should be in keeping with the Edwardian style houses that adjoin the site.
- r) The view of the Listed chapel would be impeded by the development and there may be bodies buried on the land.
- s) The slope of the site makes it unsuitable and would have an impact on natural drainage.
- t) There is a concern regarding contamination in relation to the existing buildings, former use as an abattoir and coal mining potentially impacting upon their gardens.
- u) All trees and hedging bounding the site should be retained and new planting proposed.
- v) The dwellings would result in the loss of privacy for existing residents.
- w) The site has an industrial use and there is no permitted change to residential in the General Permitted Development Order 2016 Article 8.
- x) A Phase II Site Investigation is required and the use class of the site should be updated.
- y) Further bat surveys are required prior to determination.
- z) The proposal would cause a strain on the existing drainage by increasing run-off and the FRA does not take account of the land to the north with planning permission (9/2016/0931).
- aa) The ground movement has not stopped as stated in the Coal Mining Risk Assessment.
- bb) Due to the site having a higher land level than their property, privacy of their property would be reduced.
- cc) Vehicles using the site's access would have a direct line of vision into their garden with associated light pollution.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) BNE3 (Biodiversity), BNE4 (Landscape and Character and Local Distinctiveness), INF1 (Infrastructure and Development Contributions), INF2 (Sustainable Access), INF6 (Community Facilities), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Section 106 Agreements – A Guide for Developers
- Affordable Housing SPD

Planning Considerations

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

- Principle of Development;
- Residential Amenity;
- Impacts on the Heritage Asset;
- Landscape and character;
- Contamination and Flood Risk;
- Highways; and
- Section 106 Contributions.

Planning Assessment

Principle of Development

The site is located within the urban area of Newhall where LP1 Policy H1 considers development of all sizes within the settlement boundaries to be appropriate. The site is located in close proximity to the local centre of Newhall and the main route to the town centre of Swadlincote and as such is considered a sustainable location. Thus, the principle of residential development is acceptable.

Residential Amenity

LP1 Policies SD1 and BNE1 require that developments should not lead to adverse impacts on the privacy and amenity of existing nearby occupiers. Layout of the site is not applied for at this stage, therefore the submitted layout is indicative only. Having assessed this layout against the distance guidelines within the SPD Design Guide, taking into account of the significant changes in land levels between any proposed and existing properties, it demonstrates that the number of dwellings can be accommodated without significant impacts on the amenity of existing properties. Detailed assessments would be made at reserved matters stage when the layout and appearance are known and plot 4 and 10 may require revision to comply with the guidelines depending on the house type and windows proposed. Finished floor levels should be provided a reserved matters stage to inform the distance guidelines assessment. Overall the layout shows dwellings that are in character and scale with the existing pattern of development in accordance with Policies SD1 and BNE1.

Impact on the Heritage Asset

LP1 Policy BNE2 requires developments that affect heritage assets to protect, conserve and enhance the assets and their settings. LP2 Policy BNE10 requires all developments that affect heritage assets to be accompanied by a heritage assessment, taking account of the design, form, scale, mass, sitting and setting of the asset.

The Central Methodist Chapel on Chapel Street is a Grade II Listed Building. The three storey building sits within the slope, adjacent to the south eastern corner of the site. The Chapel was built in 1863 and has architectural and evidential interest in its traditional construction and reflection of Methodist architectural design and style including classical features such as the principal elevation with its symmetrical and pedimented gable end with pilaster detail and rounded arch windows. The facades have been stuccoed to indicate an elevated building of some status within the wider area, reflected in its location on the slope.

Historic mapping (OS map 1881) indicates the area around the chapel was subject to low density sporadic development during the Victorian period with the area remaining open and what appears to be a small orchard to the south of the site. This wider setting has altered considerably during the C20 with the loss of the orchard to car parking and later housing estate development around the perimeter, the area is now characterised by modern residential development. The boundary of the graveyard, which makes a positive contribution to the setting of the place of worship, is still evident in a mix of hard and soft landscaping with an established hedge running along the western perimeter adjacent to the site. Beyond this, the setting contributes little to the significance of the Chapel having been eroded by later modern development and alterations.

Development on the site is not considered to disrupt views of the principal elevation which is evident from Chapel Street and would not encroach on the burial ground with any future application taking into account the established western boundary hedge which should be retained. The Design and Access Statement includes an assessment of the impact on the setting of the asset and states that existing hedgerows would be retained.

Therefore, the proposed development is acceptable as it would not adversely impact on the setting of the Chapel in compliance with Policies BNE2 and BNE10.

Landscape and character

LP1 Policy BNE4 requires developments to protect and enhance the character, local distinctiveness and landscape quality and retain key landscape components.

The site is bounded by existing residential properties which have garden areas adjacent to the site's boundaries, albeit in the south east corner, which adjoins the graveyard and Chapel. Existing hedging bounds the site to the south west and south east and should be retained. The site slopes down from north east to the south west significantly and thus the proposed properties whilst they would not have a road frontage streetscene they are likely to be glimpsed from the existing gaps in

development along Orchard Street and from Chapel Street to the east. The proposed development being surrounding by existing dwellings and at a density consistent with these properties is considered to be in character with the area. Overall, the proposal is considered acceptable with a layout that is capable of providing new landscape features to enhance the streetscene of the development and that would complement the existing character, in accordance with Policy BNE4.

Contamination and Flood Risk

LP1 Policy SD4 requires development on contaminated land and with coal mining legacy issues to demonstrate through appropriate investigations that necessary remediation can be incorporated. The Phase I Site Appraisal and Coal Mining Risk Assessment have sufficiently identified any potential risks and provided appropriate recommendations which are accepted by the Coal Authority and Environmental Health Officer subject to conditions which shall be attached to any permission. Based on the fact that no building works can take place as a result of this permission as it is outline, necessary remediation measures can be considered in the required intrusive site investigations in order to protect human health and/or the natural environment in accordance with Policy SD4.

Highways Issues

LP1 Policy INF2 requires appropriate provision to be made for safe and convenient access to and within the developments of all users. The access to the site is proposed between 17 and 19 Orchard Street and the illustrative layout shows a 5m wide road with a 2m wide footway on the western side. 2.4m x 43m visibility splays onto Orchard Street are demonstrated with a turning area provided within the site and 2 spaces per dwelling shown. The Highways Authority has no objection subject to conditions and as such a suitable access can be provided in accordance with Policy INF2 and NPPF paragraph 32.

Section 106 Contributions

The Education Authority has made the following assessments in relation to capacity of local schools. Newhall Infant School has a net capacity for 270 pupils, with 248 pupils currently on roll. The number of pupils on roll is projected to show a slight increase during the next five years to 250. An evaluation of recently approved residential developments within the normal area of Newhall Infant School would generate an additional 1 infant pupil. 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 infant school would have sufficient capacity to accommodate the 2 infant pupils arising from the proposed development.

Newhall Junior School has a net capacity for 356 pupils, with 343 pupils currently on roll and an evaluation of recently approved residential developments within the normal area of Newhall Junior School shows new development would generate an additional 1 junior pupil. 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 junior school would have sufficient capacity to accommodate the 2 junior pupils arising from the proposed development.

The proposed development falls within and directly relates to the normal area of The William Allitt School. The proposed development of 20 dwellings would generate the need to provide for an additional 3 secondary pupils. The William Allitt School has a net capacity for 945 pupils with 764 pupils currently on roll. The number of pupils on roll is projected to decrease to 731 during the next five years. 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 secondary school would have sufficient capacity to accommodate the 3 secondary arising from the proposed development.

Therefore local schools have sufficient capacity to accommodate the additional pupils generated by the development and no financial contributions are sought.

For a development of 20 dwellings the Council's SPG requires a commuted sum for contribution to off-site provision of public open space. This is calculated as follows based on the accommodation report submitted:

- Recreation open space at £373 x 56 beds = £20,888
- Recreation outdoor sports facilities at £220 x 56 beds = £12,320
- Recreation built facilities at £122 x 56 beds = £6,832

The above contributions would be used to improve facilities within Newhall Park.

The site is located within the National Forest and exceeds the threshold set out in LP1 Policy INF8 where National Forest woodland planting and landscaping is expected to be included. The site area extends to 0.56ha therefore the expected amount of planting is 0.11ha. As there is limited opportunity for tree planting within the site a contribution of £3,850 towards off site National Forest planting is required.

LP1 Policy H21 states the Council seeks to secure up to 30% of new housing as affordable housing on site above 15 dwellings. This would equate to 6 units with a split of 68% for rent and 32% intermediate in accordance with the Affordable Housing SPD to be secured by the Section 106 agreement.

The NHS had not commented at the time of writing the report so any financial contributions required to increase capacity in local doctor's surgeries is not known and shall be verbally reported at committee.

All the above sums are based on the current indicative layout showing 20 dwellings. As the proposal is in outline, the above sums may be adjusted accordingly to reflect the quantum eventually advanced under the reserved matters application.

Conclusion

The principle of residential development is acceptable in this highly sustainable area surrounded by existing residential properties without significant impacts on both the setting of the Listed Chapel and the residential amenity of existing dwellings.

Suitable access can be achieved from Orchard Street. Reports submitted in relation to Contamination, Coal Mining legacies and Flood Risk have adequately assessed risks and recommended appropriate mitigation. It has been demonstrated that the proposed development can be assimilated into the existing area without significant impacts on its character and involving the retention of existing landscape features. Appropriate mitigation in the form of financial contributions to ensure sufficient capacity is provided for local facilities to accommodate the additional residents can be secured. Overall, the proposal accords with the Council's aim to promote sustainable growth within the district.

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

Recommendation

A. That delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report.

B. Subject to A, **GRANT** permission subject to the following conditions:

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

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

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard:

- (a) appearance,
- (b) landscaping,
- (c) layout, and
- (d) scale.

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

3. The details of access shall be carried out in accordance with plan ref. 18/256-03; whilst the reserved matters shall be broadly in accordance with plan ref. 18/256-03 and paragraphs 4.3, 4.4, 5.2, 5.3, 6.2 and 6.3 of the revised Design and Access Statement received on the 4th July 2018, and include the

following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

- (a) details of the finished floor levels to each dwelling along with proposed site levels of adjoining ground/spaces;
- (b) the layout shall be in accordance with the guidance contained in the 'Manual for Streets' document issued by the Department of Transport and Communities and Local Government and Derbyshire County Council's 6C's Design Guide (or any document(s) which may revise or supersede those publications),
- (c) the layout shall provide space for the parking and turning of no less than 2 vehicles per dwelling provided, and for the avoidance of doubt, where a garage is to be counted as a parking space, the internal dimensions shall not be less than 3m wide by 6m long with any service or vehicular doors opening outwards, and
- (d) evidence and/or details to demonstrate the layout can suitably accommodate the proposed surface water drainage capacity required to drain the site in accordance with conditions 15 & 16.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, amenities of adjoining occupiers, biodiversity and heritage assets.

4. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 0800 hours and 1800 hours Mondays to Saturdays, and between 0800 hours and 1300 hours on Sundays and public holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy SD1.

5. No deliveries shall be made to or dispatched from the site during the construction phase other than between 0800 hours and 1800 hours Mondays to Saturdays, and between 0800 hours and 1300 hours on Sundays and public holidays.

Reason: To safeguard the amenities of nearby occupiers and/or in the interests of highway safety.

6. No development shall commence until a scheme to deal with the risks from contamination of land affecting the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

- i) a Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health, environmental risk assessment and the soil chemistry of cemeteries; and

ii) a remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be first submitted to and approved in writing by the Local Planning Authority.

A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development and/or prior to the first occupation of each respective plot. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

7. No development shall commence until a scheme of intrusive site investigation for coal mining legacy followed by a report of the findings arising from the intrusive site investigations and any remedial works required has been submitted to and approved in writing by the Local Planning Authority. Any remedial works shall be implemented in accordance with the approved details prior to the first occupation of the development.

Reason: To protect the health of the public and the environment from hazards arising from past coal mining which might be brought to light by development of the site, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

8. No development, including preparatory works, shall commence until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is replaced/completed pursuant to the requirements of condition 13.

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

9. No development, other than that allowed under condition 8, shall commence until space has been provided within the site for storage of plant and

materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, cleaning of wheels to delivery/construction vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: 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.

10. No development shall commence until a construction management plan (CMP) or construction method statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMP/CMS shall include details of the parking provision for vehicles of site operatives and visitors; routes for construction traffic, including abnormal loads/cranes; the method of prevention of debris being carried onto the highway; proposed temporary traffic restrictions and the arrangement of turning vehicles. The approved CMP/CMS shall be adhered to throughout the construction period.

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

11. Before works to create a new estate street take place, construction details of the residential estate street(s) and footway(s) (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

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

12. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 2, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot.

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

13. Prior to the first occupation of any dwelling hereby permitted, the new vehicular and pedestrian access to Orchard Street shall be constructed. The junction shall be laid out in accordance with the approved plan, constructed to base level, drained, lit, provided with white lining and signage and visibility sightlines of 43m to the south east and 38m to the north west, both measured to a point 1m in from the nearside edge of the carriageway, as measured from

a point located centrally and 2.4m back into the access. 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 safe and suitable access for all users, in the interests of highway safety.

14. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a scheme for the drainage of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of each respective dwelling served by the foul water drainage system.

Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment.

15. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed assessment to demonstrate that the proposed destination for surface water accords with the hierarchy in paragraph 80 of the planning practice guidance (or any revision or new guidance that may replace it) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that surface water from the development can be directed towards the most appropriate waterbody in terms of flood risk and practicality, noting that certain works may compromise the ability to subsequently achieve this objective.

16. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with the principles outlined within (a) the submitted Flood Risk and Runoff Assessment (NeoFlood Ltd, January 2018) and (b) DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The scheme shall also include drawings/details to means of preventing the discharge of water from the development onto the public highway. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

17. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 16. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

18. The development hereby approved shall incorporate the site enhancement measures set out in section 5.2.1 of the Activity Survey for Bats report dated June 2018 prepared by Absolute Ecology, with details of the location of those measures and means of communicating their purpose and maintenance requirements to the subsequent occupiers of the dwellings submitted to and approved in writing by the Local Planning Authority prior to the occupation of a dwelling. The approved ecological enhancement measures shall be implemented in full and retained as such thereafter.

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

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

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

Informatives:

1. The applicant/developer is advised to liaise with the Local Planning Authority prior to submitting details of reserved matters for approval. It is strongly encouraged that, in addition to the requirements set out in any conditions, adequate details are supplied so to negate the need for further conditions upon approval. For example, details and locations of boundary treatments and species and size for soft landscaping should be provided pursuant to matters of landscaping, whilst details and/or samples of facing and surfacing materials and details of porches, rooflights, verges, eaves, cills and lintels should be provided pursuant to matters of appearance. For all matters, attention should

be given to the Council's Design Guide Supplementary Planning Document - in particular the relationship with surrounding properties.

2. The details submitted under reserved matters should ensure that (i) all exposed housing elevations are well treated to allow a view between interiors and external space; (ii) where housing is set in blocks of more than two properties, rear garden access originates within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less, and that all shared rear garden accesses are secured at the point of origin with a lockable gate; (iii) enclosed parking courtyards are overlooked or gated; and (iv) aspects of footpaths through public spaces are not compromised by any landscaping sited between footpath and the dwellings.
3. The developer is encouraged to provide at least one electric vehicle charging point per dwelling with dedicated parking prior to the occupation of the associated dwelling, and it thereafter be maintained for the life of the approved development.
4. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.
5. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
6. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.
7. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside

cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.

8. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
9. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
10. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. 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.
11. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
12. 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.
13. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact Flood.Team@derbyshire.gov.uk.
14. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 4.3 of the CIRIA SuDS Manual C753. This type of development usually requires >2 treatment stages before outfall into surface

water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status. 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.

15. The Environmental Health Manager advises that, if practicable, use of ground source or air source heat pumps is encouraged as a sustainable energy solution for the provision of heating to the proposed residential units of the development, whilst the use of solid fuel burners should be avoided in the interests of maintaining air quality. During the period of construction there should also be no clearance of vegetation by burning, or disposal of other materials by burning owing to the proximity of neighbouring sensitive receptors.
16. 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: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.
17. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Prior extraction of surface coal requires an Incidental Coal Agreement from The Coal Authority. Further information can be found at: www.gov.uk/get-a-licence-for-coal-mining.
18. If watercourses, attenuation pond(s) and/or swale(s) are to be incorporated into public areas on the site, these should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.

17/07/2018

Item **1.4**

Ref. No. **9/2018/0566/NA**

Applicant:
Messrs Atkin Bros
Grange Farm
70 Twyford Road
Barrow On Trent
Derby
DE73 7HA

Agent:
James Wilks
J S Wilks FRICS
6 Old Saddlers Yard
Uttoxeter
ST14 7RT

Proposal: **PRIOR NOTIFICATION FOR THE ERECTION OF A FODDER STORE**
 AT GRANGE FARM 70 TWYFORD ROAD BARROW ON TRENT
 DERBY

Ward: **Aston**

Valid Date **29/05/2018**

Reason for committee determination

The item is presented to Committee as Councillor Neil Atkin has an interest in the land.

Site Description

The farm is located outside of the settlement boundary for the village of Barrow upon Trent. The site is contained amongst a cluster of agricultural buildings and is level ground. Due to the position of the existing buildings, the site has limited visibility from Twyford Road.

Proposal

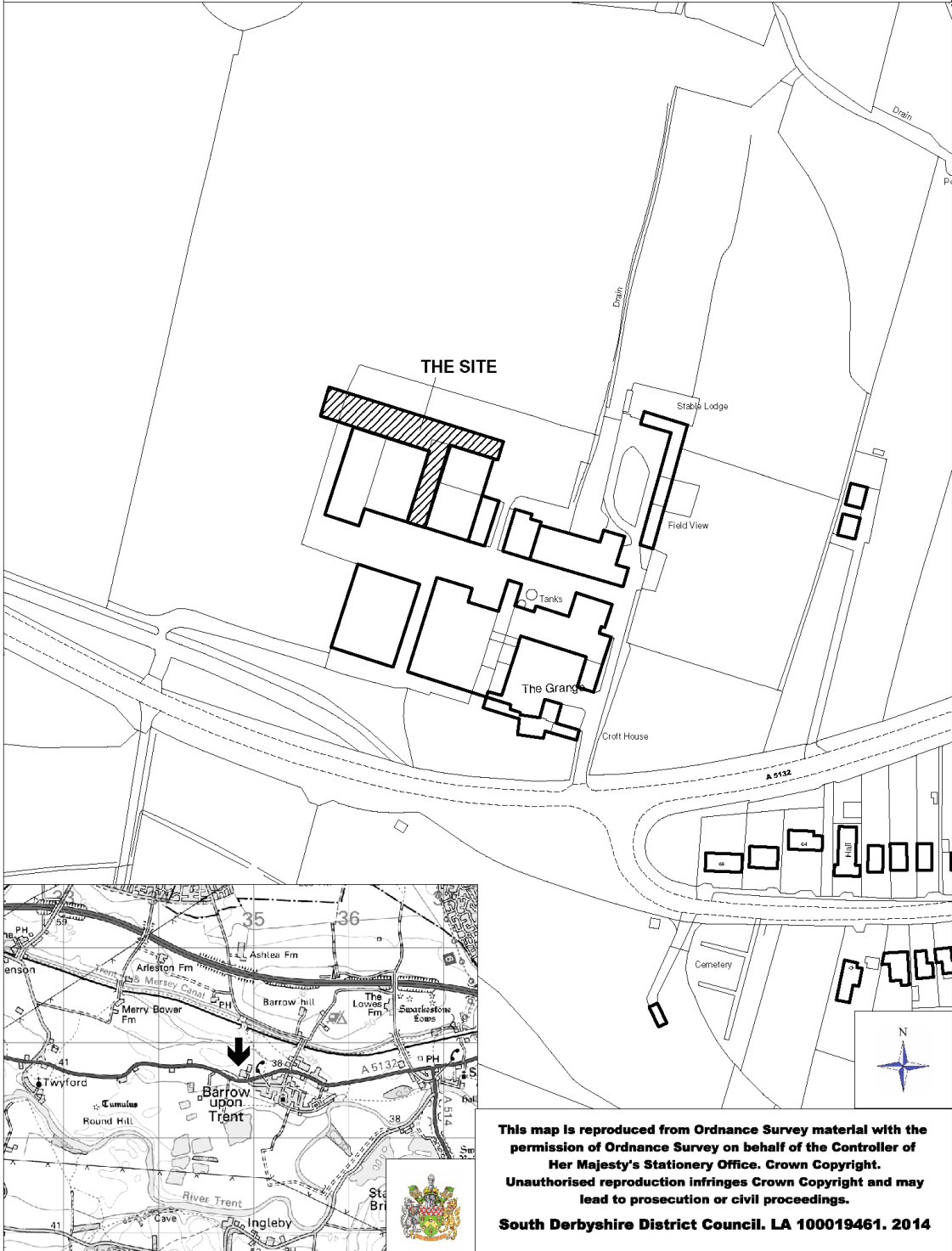
A Prior Notification has been submitted to establish whether further details of siting, design and external appearance would be required for the erection of a fodder (hay and straw) store extension to serve the existing farm. The proposed building would be of a "T" shaped footprint and would be connected to the existing agricultural buildings. The extension would cover an area of 952 square metres, with a maximum height of 8.3m and would create an infill building between the existing agricultural buildings. The materials would be chosen to match those on the adjacent buildings.

Planning History

9/2012/0015 Prior notification for the erection of an end extension and lean to – No objection 08/02/2012

9/2013/0421 The erection of an agricultural building for storage of grain –
17/07/2013

**9/2018/0566 - Grange Farm, 70 Twyford Road, Barrow on Trent, Derby
DE73 7HA**



9/2013/0422 The erection of an agricultural building for loose housing of cattle – Approved – 17/07/2013

9/2015/0692 Prior notification for the erection of a steel portal frame with open sides and cladding to roof – No objection 16/09/2015

Responses to Consultations

There have been no comments received.

Responses to Publicity

There have been no comments received.

Relevant Legislation

Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE4 (Landscape Character and Local Distinctiveness).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE6 (Agricultural Development).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

This is not a planning application. Instead, permission exists in principle for the development and the Prior Notification is required to ascertain whether Prior Approval is required for the siting, design or materials of the building. If it is decided that no further details are required, then there is no scope to refuse the Prior Notification. If further details are required, this request must be based on a particular reason – such as the siting affecting the setting of a heritage asset, or the scale of the building being of importance to neighbouring amenity.

The main issue central to the determination of this application is whether further details of siting, design and external appearance are required.

Planning Assessment

Siting, design and external appearance

Owing to the open elevation to the rear, the size and footprint of the proposed building, as well as the limited visibility of the site due to the position of the existing agricultural buildings; it would be considered that the proposed works would be in keeping with the size, scale and materials of the existing site and would not pose a risk to the visual amenity of the area. There is not considered to be an issue in respect of impacts on neighbouring amenity or heritage.

Conclusion

The proposed development has been assessed against the requirements of the relevant legislation. It is considered there are no concerns in respect of siting, design or external appearance, and thus there is no basis to seek further details to be submitted.

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

Recommendation

Do not request further details and raise no objection to the Prior Notification.

Item **1.5**

Ref. No. **9/2018/0598/TP**

Applicant:
Mr Martin P Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Martin P Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE FELLING OF TWO CHERRY TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 132 AT LAND OPPOSITE 8 KINGFISHER CLOSE MICKLEOVER DERBY**

Ward: **Etwall**

Valid Date **04/06/2018**

Reason for committee determination

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

Site Description

The trees sit on council-maintained Public Open Space (POS). The group (which within they sit) has three-fold offer; simply a linear feature in its own right, obvious wildlife/environmental benefits and, by virtue of the levels on which they sit (a sloping piece of ground), it softens the otherwise awkward change of levels between the houses on Kingfisher Close and Edmunds Square.

Proposal

The proposal is to remove two cherry trees within the group.

Applicant's supporting information

The Council's Tree Officer has classified the trees as unsuitable for long term retention noting that 'upon inspection both trees were identified as being hazardous'.

Planning History

The TPO was made in 1996, part of the estate-wide order. This group (protected as woodland) features a variety of species including rowan, whitebeam, crab apple, prunus, cypress, holly and red cedar.

9/2018/0598 - Land opposite 8 Kingfisher Close, Mickleover, Derby DE3 0UE



Responses to Consultations

None.

Responses to Publicity

One neighbour has expressed concern over the removal of the trees stating that whilst they acknowledge there are some dead branches within their respective crowns, they still blossom every May and have done for 22 years. They continue that surely a pruning would suffice and it would be a shame to cut down a tree which clearly isn't dead.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 2 (LP1): BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness);
- 2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

National Guidance

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

Planning Considerations

The main issue central to the determination of this application is whether the work is warranted given the trees' protected designation.

Planning Assessment

The trees sit centrally in this linear feature. Individually they have limited merit - they do not necessarily 'stand out' - but do contribute to the context (more so in spring) when they are in blossom.

It is undisputed the respective crowns of these trees have defects within. Some urgent (and such 'exempt' work) has been carried out, removing hanging and/or defective material, that with the potential to fall onto the highway below. The trees however are also showing signs of more progressive decay and die back, and the finding of a large ganoderma bracket fungus further evidences that the trees structural stability is under attack.

In response to the neighbours comment in regards the continued flowering display of the trees, foliage and flowers are dependent on cambium health, not structural stability.

The Council's Tree Officer has recommended that the sloping site is not suitable to replant. The woodland would make up for the loss of the trees (by growing into that void) within a reasonably short period of time.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

Reason: To safeguard the health of the tree(s).

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2017/1157	Main Street, Repton	Repton	Dismissed	Delegated

Appeal Decision

Site visit made on 29 May 2018

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2018

Appeal Ref: APP/F1040/W/18/3197254
106 Main Street, Repton, Derby DE65 6FB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Donald against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/1157, dated 25 October 2017, was refused by notice dated 19 January 2018.
 - The development proposed is the erection of a detached dwelling with detached garage.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs I Donald against South Derbyshire District Council. This application is the subject of a separate decision.

Procedural Matter

3. Outline planning permission is sought, but with all matters reserved, except for access and layout. I have determined the appeal on this basis.

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons

5. The appeal site currently forms the lower part of the front garden of 106 Main Street, which is a detached house, set on higher ground behind. The appeal site faces Main Street, and has an existing gate on this boundary that provides pedestrian access. When viewing the site from the front, the existing access road, which currently serves No 106, and a row of terraced dwellings, is to the left.
6. The appeal scheme is for the erection of a detached dwelling and detached garage in front of No 106. The layout of the proposal is such that it would front Main Street, and would also incorporate the existing brick building that currently occupies part of the site. A large section of the existing hedgerow, located on the front and side boundaries, would be removed as part of the scheme to provide, amongst other things, the vehicular access to the proposed dwelling.

7. The appellants have supported their submission with a Transport and Highways Technical Note (THTN). The statement provides information in relation to traffic flows and volumes, average speeds, and accident records amongst other things. It is stated within this document that there has only been one recorded accident on the surrounding highway network, which occurred in 1999. Additionally, it states that the general speed of traffic passing the proposed access to the scheme is travelling below the 30mph speed limit.
8. However, a neighbouring occupier advises that there have been two additional accidents in 2004 and 2007 of some significance. Additionally, reference is also made to various other minor incidents, such as wing mirrors being damaged, and injuries to pets. The neighbouring occupier considers that in their experience, more vehicles exceed the speed limit than the survey would suggest. However, there is no data to support this claim to the contrary of the findings in the submitted traffic survey. Furthermore, the same neighbouring occupier points out that residents of neighbouring properties park their cars on the road in the vicinity of the appeal site, which I too noted during my visit, and draws attention to the effect such matters may have on the available carriageway width and accompanying visibility from the proposed access.
9. In light of all the evidence, I consider that Main Street does not constitute a lightly trafficked low speed area, and as such an X distance of 2.0m is not appropriate in this instance. In light of the results contained in the speed survey, both parties in their representations appear to accept that the visibility splay required in this instance for the development should be 2.4m x 40m. However, this is only achievable if a 1.1m extension to the width of the footpath is incorporated within the development.
10. The relevant application drawings indicate that the existing carriageway width in the vicinity of the site is approximately 6.6m. Without the extension of the footpath into the carriageway, the necessary visibility splay could not be achieved at the proposed point of access. The existing access to No 106 already suffers from a restricted visibility, and without the necessary provision of acceptable visibility splays, the development, albeit for one dwelling, would intensify an access with shortcomings, to the detriment of highway safety.
11. Therefore, an acceptable access to the scheme depends on the suitability of the extension of the footpath as proposed. I noted during my visit that the footpath is wider to the left of the existing access when viewed from the front, when compared to the footpath to the right. However, this feature appears to occur due to the differing front boundary lines of the dwellings on this road, and not because of the kerb line of the carriageway. The appellants suggest that there would be benefit arising from the works to the new access, such as a more consistent horizontal alignment of Main Street and with implications for highway safety. However, I consider that the extension of the footpath would create a unexpected pinch point in the road, on a section of the carriageway where the kerb line of the carriageway is reasonably straight. Consequently, I consider that a reduction in width of the existing carriageway would unduly impede drivers of vehicles using this section of the road.
12. Both parties have referred to various applications and/or appeal decisions in the locality, which I have noted, but my finding remains for the reasons indicated that the extension of the footpath, and the subsequent reduction in road width would not constitute an appropriate design solution, to achieve the

necessary visibility splays for the scheme. The extended kerb line as proposed would represent an unexpected protrusion on a relatively straight and otherwise unconstrained highway. I consider that drivers would not be easily able to assimilate the change in carriageway width, when driving along this section of road, thus increasing the potential for contact with the kerb, and the associated potential likelihood of vehicular/pedestrian conflict.

13. For all of these reasons, I therefore conclude that the proposed scheme would unacceptably harm highway safety with particular regard to the proposed arrangement for reducing the width of the carriageway through the extension of the footpath to provide the necessary visibility splays for the scheme. There would be conflict with the requirements of Policy INF2 of the South Derbyshire Local Plan Part 1 2016 which states, that permission will be granted for development which, amongst other things, has an appropriate, safe and convenient access to, and within the development. As a result, the proposal would also be contrary to paragraph 32 of the National Planning Policy Framework, which, amongst other things, seeks that safe and suitable access to the site can be achieved for all people.

Other Matters

14. The Council raises no objection to the principle of development, and I note the associated representation of the Parish Council. The Council also raises no objection to the proposed layout of the dwelling. I consider that the appeal site is located within walking distance of Repton, and so has good access to the range of services and facilities the village has to offer. Therefore, I agree with the Council that the scheme would be located in an accessible location, and in principle is suitable for residential development. In respect of the layout, the Council considers that the scheme would not significantly harm the character and appearance of the area, and I too find no harm in this specific regard.
15. I have noted the comments from other neighbouring occupiers that were submitted to the Council during the assessment of the planning application. The occupiers of 104 Main Street, raise no objections to the scheme, subject to the scale and appearance being in keeping with the character of the street scene. However, this outline application does not seek formal consideration of these elements at this stage. All matters of design and scale would be determined at reserved matters stage.
16. The owners of the existing driveway and yard to the rear have stated that they would not grant any access or egress to the driveway for the proposed development. However, any such requirement would be a civil matter between the parties involved, and this is not of such significance as to outweigh my findings on the main issue. I have considered this appeal proposal on its own planning merits and concluded that the scheme for one dwelling off Main Street is not acceptable for the reasons of highway safety as set out above.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Wayne Johnson

INSPECTOR