

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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

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 1995 (as amended) responses to County Matters and submissions to the IPC.

Reference	Item	Place	Ward	Page
9/2014/0645	1.1	Overseal	Seales	1
9/2014/0697	1.2	Milton	Repton	5
9/2014/0716	1.3	Milton	Repton	25
9/2014/0731	1.4	Weston	Aston	30
9/2014/0748	1.5	Swarkestone	Aston	34
9/2014/0725	1.6	Melbourne	Melbourne	45
9/2014/0721	1.7	Repton	Repton	62
9/2014/0722	1.8	Repton	Repton	70
9/2014/0801	1.9	Repton	Repton	72
9/2014/0852	1.10	Overseal	Seales	75
9/2014/0700	2.1	Smisby	Repton	82

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

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

Item 1.1

Reg. No. 9/2014/0645/FH

Applicant:
Mr Adrian Watts
1 Forest View
Overseal
Swadlincote
DE12 6GZ

Agent:
Mr David Malpas
Premier Building Design
6 Caistor Close
Mile Oak
Tamworth
B78 3PT

Proposal: THE ERECTION OF AN EXTENSION AT 1 FOREST VIEW OVERSEAL SWADLINCOTE

Ward: SEALES

Valid Date: 15/07/2014

Members will recall deferring determination of this application pending a visit to the site. No changes to the report have been made.

Reason for committee determination

The application is reported to Committee at the request of Councillor Frost because a local concern has been expressed about a particular issue.

Site Description

The application dwelling is the first property in a row of four identical properties. The properties are two storey with gable frontages and gable feature porches with are attached by integral garages. The property's side boundary abuts the 30m rear garden of properties on Woodville Road. The property has been extended previously and it has a large detached garage forward of the main dwelling.

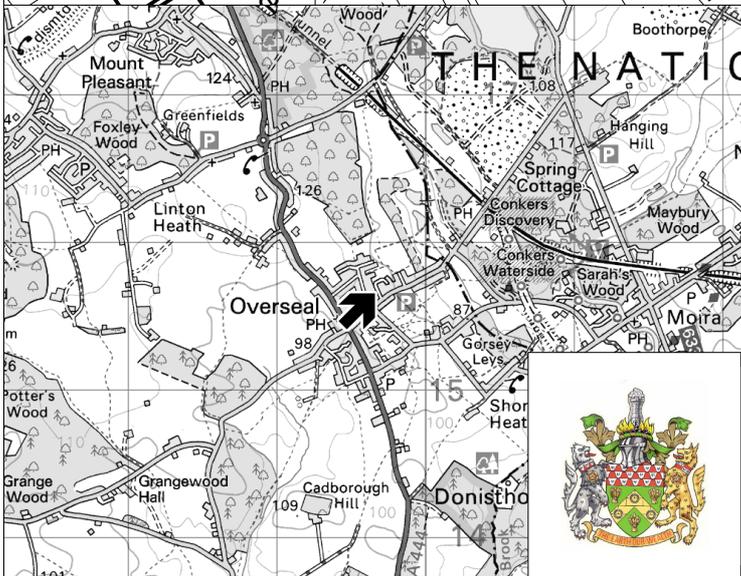
Proposal

Planning permission is sought for a two story extension to the side. The proposed extension would be 6.5m in height, measuring 5m x 5.3m and is a similar style to the existing building.

Applicants' supporting information

None

Planning History



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2014

9/2012/0855 – Detached garage with storage to roof area (amended scheme to 9/2011/0379), Granted 4/12/12

9/2011/0379 – Erection of extension and detached garage, Granted 30/6/11

Responses to Consultations

Overseal Parish Council supports the application.

Responses to Publicity

Three separate communications from a single household have been received which can be summarised as follows:-

- a) The appearance and size of the extension is out of character with the property and the street.
- b) It would cause overshadowing and loss of privacy.
- c) The garage is not used to store cars and the applicant's park their cars on the road which creates a road hazard.
- d) The garage roof is too high and does not accord with approved plans.
- e) Construction work should not be at weekends or Bank Holidays.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy13

The emerging policies are:

- Local Plan Part 1 (Submission Version): SD8 Amenity and Environmental Quality

National Guidance

National Planning Policy Framework (NPPF) paragraphs

- 9 - Purposes of Sustainable Development
- 14 - Presumption in favour of Sustainable Development
- 17 - Core Planning Principles
- 56 - Requiring Good Design

National Planning Practice Guidance (NPPG) ID:26 Design

Local Guidance

Advice from the Better Design for South Derbyshire paper and 'Extending your Home' SPG.

Planning Considerations

The main issue central to the determination of this application is the impact on visual and residential amenity.

Planning Assessment

The proposed extension would be set back 2m from the front of the existing dwelling and 9m from the road. A large portion of the extension would not be visible from the road as the existing detached garage obscures the view. Due to the set back the proposal would appear subordinate to the original dwelling and would not be highly visible in the streetscene. The design proposed is considered to be in keeping with the property.

The property has adequate parking as there are two spaces to the front and a double garage. An assessment was carried out and the garage does accord with the approved plans granted in 2012.

The proposed windows on the first floor are located approximately twenty five metres away from the property opposite and properties to the rear have 40m rear gardens. The proposal therefore accords with the Council's space standards and thus would not have a significant impact on the amenity of neighbouring properties.

Any disturbance caused during construction would be covered under the Environmental Protection Act.

Conclusion

It is considered that the proposed two storey side extension by virtue of its scale, massing, design and location would not harm the privacy or amenity of the occupiers of any neighbouring dwellings, nor would it adversely affect the character or appearance of the wider area. As such the proposal is considered to comply with policy H13 of the South Derbyshire Local Plan, advice within the Better Design for South Derbyshire paper, Extending your Home Supplementary Planning Guidance and paragraphs 9, 14, 17 and 56 of the NPPF.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall be similar to those used in the existing building in colour, coursing and texture.
Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

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

Item 1.2

Reg. No. 9/2014/0697/FM

Applicant:
Church Commissioners For England
C/O Agent

Agent:
Miss Jennifer Hadland
Smiths Gore
24 Coniscliffe Road
Darlington
DL3 7JX

Proposal: **DEMOLITION OF FARM BUILDINGS/STRUCTURES
TOGETHER WITH THE CONVERSION, EXTENSION AND
REPLACEMENT OF AGRICULTURAL BUILDINGS TO
FORM 3 DWELLINGS AND GARAGING/CAR PORT
SPACE, ALONG WITH CREATION OF ACCESS AT
COMMON FARM MAIN STREET MILTON DERBY**

Ward: REPTON

Valid Date: 22/07/2014

Members will recall this item was deferred at the meeting on 16 September 2014 to enable the Committee to visit the site. The report remains largely unaltered, as set out below, but with changes and/or additions in italics.

Reason for committee determination

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

Site Description

The site is located to the west side of Main Street in Milton with existing housing north, south and east of the site. The farmhouse and farm buildings are accessed from Main Street. The site comprises a number of traditional brick built barns and stores which are now redundant. These frame two courtyards – the first forming part of the farmhouse setting, the second forming the more historically functional courtyard with a redundant grain silo sat within it. A smaller lean to arrangement also adjoins these buildings. Beyond are four large modern farm buildings within a concrete yard with a concrete silage clamp to the rear.

The traditional farm buildings comprise a long single storey cattle shed extending immediately to the rear of the farmhouse along the northern boundary of the site. This is joined at a right angle by another single storey range comprising four stables and store with catslide roof. On the southern boundary of the site is a two storey building built as a

grain store with animal stalls and cart shed below. This building has been extended to the west in the past by a single storey building although since replaced by an unattractive open lean-to store with corrugated iron roof. The brick built buildings are either listed by way of connection to the principal listed building – the three-storey Grade II farmhouse fronting directly on to Main Street, or by way of curtilage association given their age, function and ownership at the time of listing in 1986. This group of traditional buildings was formerly completed by a fourth range, demolished circa 1970, which would have extended from the western end of the cattle shed enclosing the functional courtyard, making way for the more contemporary buildings. This is evidenced through inserted brick work in the cattle shed and as shown on historical Ordnance Survey mapping.

To the north of the farmhouse is a small open area of grassland, opposite the access is a modern bungalow (Woodleigh) with further dwellings and the village hall north and south of this property. To the south of the site is a small orchard framed by a stone wall to the highway boundary; whilst farmland lies to the west beyond the more contemporary buildings at the farm.

The site falls wholly within the Milton conservation area and mostly within the village confines. It is not designated to be at risk of flooding or subject to other statutory constraints.

Proposal

It is proposed to change the use of the traditional agricultural buildings to form 3 dwellings with garaging/carport space. This would be achieved through conversion and extension of these buildings, including the replication of the former wing which was demolished. Most of the modern farm buildings would be demolished in providing for this development and associated garden space, whilst a new agricultural vehicular access would be formed to Main Street, passing through the Orchard towards the most southerly agricultural building which would be retained for such purposes.

Applicants' supporting information

Aside from detailed plans showing the existing and proposed development, the following reports are provided:

Stage 1 Ecology Survey

This was undertaken in 2013 prior to the withdrawal of the previous applications (see below) and concluded that site biodiversity is essentially related to birds and bats. The bat interest was considered to be low and possibly only recent, with Brown long-eared bat a new species record for the area, and redevelopment of the site would require a licence and mitigation for the loss of a bat roost, with a replacement potentially accommodated in a garage/carport with a ceiling. Any maturing trees that need to be removed should be surveyed for bat interest prior to removal.

Birds that have nested in the buildings are generally common species with the exception of swallow. The site has also been visited by barn owl but not recently. Vegetation clearance should be undertaken outside the bird nesting season with consideration for anomalies to the accepted breeding season. No badger activity was found on site with the nearest recorded sett approximately 0.8km distant. Hedgehog

was not found but the habitat is suitable for this species and site vegetation clearance should take this into consideration. The site is not considered suitable for reptiles and amphibians primarily due to location and lack of habitat. Where there are boundary walls on the site these are mortared and not suitable refugia. Redevelopment of the site will not have an adverse impact on the local wildlife sites identified.

Site vegetation is common with no notable or biodiversity species present. Most of the vegetation has probably established with the decline in use of the farmyard. The orchard is of recent origins with relatively young trees and while the habitat does not qualify as a biodiversity action plan habitat, it is a feature of the site that should be retained, at least in part. Native boundary vegetation should also be retained and supplemented.

Bat and Bird Report

This report specifically responds to the objection lodged by the Derbyshire Wildlife Trust under the previous applications, and should be read in conjunction with the Ecology Survey. No trees within the site were recorded as having potential to support roosting bats due to the lack of required features. Bat activity levels recorded within the site was generally low and that habitats are sub-optimal for foraging and commuting bats, comprising mainly buildings and hardstanding. Extensive foraging and commuting opportunities for bats are present within the wider area beyond the site comprising the orchard, many mature trees, wooded areas and ponds. The majority of buildings are not considered to have potential to support roosting bats on account of their fabric, open nature and/or lack of features present, with no evidence of bats recorded within these buildings.

Potential for roosting bats was recorded within the three existing traditional buildings proposed for conversion due to their dark interiors, brick walls and roofs. No evidence of bats roosting has been recorded in the single storey cattle shed along the northern edge and as such this building is not constrained by the presence of bats. However the internal and external surveys and the emergence and re-entry surveys that indicate that a small Brown Longeared bat roost is present within the buildings closest to the farmhouse. The low number of droppings recorded and the age of the droppings indicate that these buildings are used as occasional small summer roosts comprising males or non-breeding females. Given the low numbers of droppings recorded and the fluctuating temperatures that the buildings will be subjected to, the roosts are not deemed to be maternity or hibernation roosts. The status of the small roost does not require specific conditions on timing, but no works can take place until a Natural England bat licence has been obtained.

The report recommends that prior to any work taking place on these buildings a variety of bat boxes should be placed on suitable trees within the site to ensure that roosting opportunities are still available for bats during the works, as well as creating additional roosting opportunities post-development. To compensate for the loss of the existing roosts a new roost will be created specifically designed for the species of bats recorded during the surveys. A sensitive lighting scheme should also be provided and the new garden hedgerow proposed should comprise native species in order to enhance foraging opportunities.

A number of birds have been recorded utilising the site, although based on the relative small size of the site and the habitats present, it is not considered to be of any special

ornithological importance. As a precaution, due to the presence of breeding birds within some of the buildings it is recommended that any removal of suitable nesting habitat be undertaken outside of the breeding season or checked for nesting birds by a trained ecologist immediately prior to removal, with any found left in place until the young have left the nest.

Although no nesting Barn Owls have been recorded, in order to ensure that opportunities remain for this species post-development it is recommended that a Barn Owl box is placed within a suitable retained tree or building to provide roosting opportunities for this species. It is also recommended that a number of Swallow nests are provided within building to ensure opportunities for this species remain. Furthermore, it is also recommended that a variety of other nest boxes are placed on suitable trees/buildings within the site post-development in order to enhance the opportunities for a range of different bird species.

Building Appraisal Report

The Report has identified the condition of each of the buildings on site and any remedial works that may be required to them. The report concludes that the buildings are in reasonable condition with no significant structural defects noted. Localised structural repair work and maintenance is required to each of the buildings and roof structures are generally sound and require upgrading to suit conversion.

Heritage Assessment

The Assessment examines evidence from written, map, archive and published sources for the 3 historic farm buildings proposed for redevelopment and reports on a preliminary survey of the buildings' fabric and a photographic record/survey of their present condition. It concludes that the buildings probably originate in the period after the inclosure of Repton and Milton in 1769 when Common Farm may have been created on former common land.

Each of the three buildings has been examined and their former, probably original, use identified, together with a broad indication of additions and extensions. No medieval or earlier structure pre-dating Common Farm has been identified although contemporary buildings now demolished may survive as below ground deposits. Documentary search and ground inspection has not yielded an indication of archaeological deposits beyond the 18th century farm.

The results of the Assessment, together with pre-application comments by the Conservation Officer, have been employed in creating a design which is considered to enhance the historic, evidential and aesthetic value of the farm buildings. Recommendations are made for fabric recording and an archaeological watching brief during development and are felt to reflect the perceived heritage significance of the buildings. The Assessment also illustrates how, by careful design and judicious use of existing fenestration, ventilation panels and doorways, as well as, sympathetic roof lines the proposed buildings will achieve the objectives of local and national policy and provide a development which enhances the heritage assets, retains the significance of the listed farmhouse, and retains the character of the Conservation Area.

Tree Report

The Report notes there is a grade 'A' tree – a sycamore – northwest of the site that due to its large size, good form, condition and visibility from many vantage points about the village is of high amenity value. The orchard to the southeast of the farm comprises mostly young fruit trees and is an attractive feature to the village. There are 2 young beech trees and a mature holly on the east boundary of the orchard that are prominent on the street scene and also provide good amenity value to the locale. It recommends that wherever possible specimens of good quality or value should be retained and incorporated into the development layout proposals. This is particularly important in a number of key areas on this site, these being:

- To the front of the property where there are significant trees of high amenity value;
- To the north-west of the site where there is a high amenity value tree.

Recommendations are made for a tree protection plan which will clearly identify those trees to be retained and those to be removed, and the precise location for the erection of tree protective fencing and any other relevant physical protection measures to safeguard the root protection area.

Planning, Design and Access Statement

This describes the site and proposed development in some detail, as summarised above. It also summarises the above reports. The Statement notes the scheme has been informed and shaped by on-going pre-application discussion with the Conservation Officer, which have been immensely useful to the evolution of the current proposal. The Statement then moves to consider national and local planning policy, noting the proposal accords with the NPPF as it proposes development that re-uses redundant and disused buildings leading to an enhancement of the immediate setting. It is also considered the proposal accords with both paragraphs 126 and 137 of the NPPF in that it sustains and enhances the heritage assets and ensures their continuation as a heritage asset to the historic environment of Milton and its character. The new development proposed also makes a positive contribution to local character by reinstating farmyard features lost over time and better revealing the significance of the buildings as a heritage asset by removal of the large modern agricultural barns.

In terms of local policy consideration is given to Housing Policies 5, 7 and 8 given the proposal involves the creation of dwellings both inside and adjacent to the existing village confines. This is discussed in similar detail below. Consideration is also given to the impact on existing trees, noting that any trees lost are not of notable value. Extensive consideration and justification for the proposal is given in respect of Environmental Policies 12 and 13, relating to impacts arising on the designated heritage assets (the listed buildings and the conservation area). It is considered the proposal would represent a material enhancement to the setting of the listed buildings and character of the area, as already outlined above.

Planning History

9/2013/0722 & 0723: Planning and listed building applications for the demolition of farm buildings/structures together with the conversion and extension of agricultural buildings to form 3 dwellings and garaging/carport space together with the formation of a new agricultural vehicular access –
Withdrawn.

9/2013/0704: The felling of a group of leylandii trees – No objection October 2013.

Responses to Consultations

Natural England raises no objection advising that the proposal is unlikely to affect any statutorily protected sites or landscapes. They also point the Council towards their Standing Advice to assess likely impacts on protected species. They note that the application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, and the Council should consider securing measures to enhance biodiversity if it is minded to grant permission. They also highlight the proposal may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment.

Derbyshire Wildlife Trust notes that the previous application provides a benchmark in which to assess this further application, given their previous objection concluding there was insufficient information on bats to conclude compliance with the Habitat Regulations. They note the Bat and Bird Report provides details of additional survey work undertaken during May and June this year together with details of necessary mitigation measures, including provision of compensatory roosting facilities in the form of bat boxes and in the longer term a new bat loft in the new development. They advise that the concerns with regard to roosting bats raised in their 2013 objection have now been fully addressed. They state the additional survey work undertaken now gives the Council confidence that a planning decision can be made having fully taken the presence of European Protected Species (EPS) into account in accordance with the requirements of the Habitats Regulations. The report has rightly indicated that a Natural England EPS Licence will be required to proceed on works to two buildings without committing an offence, although as no evidence of bats was recorded in the other buildings bats do not present a constraint to the proposed development of these other buildings. They advise that the Mitigation, Compensation and Enhancement (MCE) measures for bats set out in paragraphs 6.1.2 to 6.1.28 of the Report are suitable to maintain the favourable conservation status of the local bat population and should be implemented in full as a condition of approval. They also fully support the MCE measures for birds as set out in paragraphs 6.2.3 to 6.2.10 of the Report which should again be implemented in full as a condition of approval. The retention and appropriate management of the orchard should also be secured by a suitably worded planning condition.

The County Development Control Archaeologist notes the site is within an area of archaeological interest, associated with the medieval core of the settlement where below-ground evidence of the early village is likely to survive. The proposals involve an element of extension and new-build with excavations for new foundations, and presumably also for services, drainage and sewerage within the site. There is consequently potential for impacts to below-ground archaeology. It is therefore recommended that this interest is addressed through a conditioned scheme of monitoring (watching brief).

The County Highway Authority raises no objection noting that whilst visibility is substandard to the north, when considering the vehicle movements currently associated with the site against those likely to be associated with the proposal, it is unlikely to result

in an increase in use of the access. They request conditions to secure appropriate visibility and parking provision for the proposed dwellings.

The Environmental Protection Officer (Contaminated Land) has no comments to make.

Responses to Publicity

Repton Parish Council objects on the following grounds:

- i) the proposed new agricultural access would have an adverse effect on the village and conservation area, with it substantially altering the character and appearance of this area;
- ii) the old renovated stone wall is in keeping and should not be disturbed;
- iii) adverse effect of highway safety given the narrow road width together with the possibility of parked cars would make the new access dangerous, lying as it would opposite existing access to 2 existing houses; and
- iv) available car parking within Milton is already very limited with the John Port school bus stopping in this area and traffic during term times increases due to the location of Repton and Foremark schools.

23 representations have been received across both the planning and listed building applications, objecting on the following grounds:

Highway safety and ease of access

- a) whether there is a need for the agricultural access given existing accesses on Mount Pleasant Road and Milton Road;
- b) the limited need for the remaining barn does not warrant such an invasive access;
- c) the proposed access road is directly opposite an existing driveway serving two dwellings;
- d) the road is narrow at the point of the proposed access and would be a hazardous position to turn a farm vehicle;
- e) the likelihood of cars being parked nearby on both sides of the road would inevitably affect the visibility splay;
- f) the traffic data collected was taken partly during a school holiday and it does not take account of particularly busy and potentially hazardous times;
- g) this part of the street is the only safe place for the pick-up and drop off point for the school bus;
- h) the gate on the new access could impede traffic;
- i) the wooden houses to the south of the site have no off street parking and so are forced to park on the road;
- j) the proposed access would further limit parking for the village hall, directly opposite the site;
- k) parking space should be made available to the public within the site to offset that lost on the highway;
- l) elderly and disabled persons would have to park more distant from the village hall;

Visual amenities, character and heritage

- m) the disturbance of the orchard and detrimental effect on the character of the neighbourhood and visual amenities;
- n) Milton is a linear village;
- o) the access road will impair the character and appearance of the conservation area ;
- p) the demolition of a 5m length of the wall would cause significant harm to the appearance of a feature of the village which includes the adjacent verge, trees and bench;
- q) Milton villagers have, over the years, repaired, renovated and generally maintained the wall to a good standard at their own expense;
- r) the Conservation Area Character Statement highlights the importance of the orchard space offering one of the principle viewpoints and the vehicular access would disrupt this defining characteristic;
- s) the wall forms part of the border of a listed building meaning it should be protected;
- t) the paddocks must be retained as agricultural land so to retain the character of the village envelope and conservation area;

Neighbouring amenity and housing mix & tenure

- u) the eastern door on plot 1 should not be glazed as this has never been the case, and it would impact on privacy to the bungalow opposite;
- v) the conversions do not reflect or enhance the scale, character and history of the village in that smaller cottages have been lost by demolition or conversion into larger houses;
- w) the proposal fails to provide for a diversity of housing, including the availability of affordable housing;
- x) a Section 106 agreement should cover maintenance of the orchard and provision of affordable housing;
- y) the ability to ensure the use of the Village Hall should not be compromised by this development;
- z) in the summer months the whole grass verge area opposite the hall is used for events requiring stalls, and this proposal would reduce the space available for this;

Drainage and biodiversity

- aa) at the point of the proposed new access Main Street is known to flood and proposed soakaways are likely to be insufficient to prevent this being exacerbated;
- bb) Milton Treatment Works are running at full capacity;
- cc) there are hedgehogs in the area as well as foxes, bats and sparrow hawks.

Other

- dd) schooling capacity for the new dwellings;
- ee) it would appear sensible and less intrusive to re-site the barn nearer to the farmstead which it serves;
- ff) the field access to the north of the farmhouse must be retained in order to maintain the adjacent property;
- gg) this application could be seen as the first of a series of developments; and

hh) nothing exists of the original western building and the developer is simply building an additional property in an already crowded village.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 7, 8 and 11 (H5, H7, H8 and H11), Environment Policies 1, 11, 12 and 13 (EV1, EV11, EV12 and EV13), and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

- Local Plan Part 1 (as modified at Submission): policies H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

National Guidance

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

Local Guidance and Evidence

- Housing Design and Layout SPG.

Other Material Considerations

- Milton Conservation Area Character Statement (CACS) 2013.
- Repton Village Society's Village Design Statement (VDS).

Planning Considerations

The 2013 applications were withdrawn following objection from the Wildlife Trust, as mentioned above, in order that further bat survey work could be undertaken. At the time of withdrawal all other technical aspects of the proposal were considered acceptable (subject to condition where necessary) in the eyes of the relevant consultees, but the Council could not even consider recommending an approval given it could not satisfy its requirements under the Habitat Regulations. This information is now available and accompanies these applications. Assessment therefore focuses on:

- the principle of development (including weight afforded to Development Plan policies);
- heritage considerations;
- ecological considerations;
- highway safety impacts arising;
- design and amenity impacts arising; and
- other relevant planning matters.

Planning Assessment

The principle of development (including weight afforded to policies)

EV1 seeks to guide development to within existing settlement confines unless it is appropriate to a rural location or unavoidable in the countryside. H5 provides for new housing development within settlement confines subject to being in keeping with the scale and character of that settlement. The principle of plots 1 and 3 is accepted and further supported by H7. However as the footprint of the dwelling to plot 2 lies outside the currently identified village boundary, H5 is not applicable to this part of the proposal – instead it falls to consideration under H8. Given it is neither a replacement dwelling nor a new dwelling benefitting from agricultural justification, the proposal fails to adhere to the Development Plan at this point. Notwithstanding this conflict, attention must still be given to material considerations which either individually or collectively may outweigh the harm arising.

Foremost is the NPPF. This advocates that housing policies for the supply of housing should not be considered to be up to date if a 5 year supply of deliverable sites cannot be demonstrated. The latest published position, as part of the emerging Plan, confirms the Council is short of such a supply. It is then necessary to consider the degree of consistency that policies EV1 and H8 have with the NPPF. EV1 is in part a housing delivery policy given it constrains the provision of housing across the District. In the context of the emerging Plan identifying a need for c.13,500 dwellings across the Plan period, it is clear that sites outside of existing settlement confines will be necessary, and this is wholly clear in the detail of the emerging Plan. As such EV1 is consistent with the NPPF in recognising in some cases development is unavoidable. H8, in so far as where it relates to new dwellings (not replacement dwellings), contains elements of paragraph 55 of the NPPF which states:

“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.... Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- i) the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- ii) where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- iii) where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- iv) the exceptional quality or innovative nature of the design of the dwelling...”.

H8 clearly provides for the special circumstances outlined at (i) whilst H7 caters for (iii) in any case. However the structure of paragraph 55 is that the exceptions only apply to *isolated* homes in the countryside. Taking cues from recent Appeal decisions and considering the location of plot 2 in relation to the existing settlement and plots 1 to 3, it is not considered this plot is isolated. Indeed it is only just beyond the settlement confine which runs arbitrarily north/south through the existing rear courtyard – not following a physical feature on the ground. Thus in order to correctly apply paragraph 55 the test is whether the proposal enhances or maintains the vitality of the rural community, and in this case it is considered to at least maintain, if not enhance, that vitality by facilitating an extra dwelling at a rate commensurate with historical rates of growth in Milton. There

is no policy requirement for affordable housing in schemes of this size, and insisting on such provision here would most likely make the development unviable and it would not proceed.

Further consideration is given to the heritage benefits arising from the additional dwelling in this position. As discussed below it would lead to the removal of the contemporary farm buildings in the immediate vicinity of the listed buildings, dramatically improving their setting; and without the enclosure to the western flank of the rear courtyard the former positive elements of the evolution of the farm would not be properly realised and appreciated. The NPPF encourages local planning authorities to look for opportunities for new development within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. This proposal achieves that aim.

It is also quite feasible to amend the layout to swap plot 2 with the presently proposed garaging and car port wing such that the new building outside of the village confines would be an incidental building, to which the principle of development is more favourable. However as this would result in a more harmful arrangement of private amenity space and fail to realise the importance of the courtyard on the setting of these barns, it is considered more prudent to allow an exception in this case.

Overall the national and local policies are intended to guide development to the more suitable settlements whilst equally preventing harmful development. Milton is very much a small village with limited services which has developed along a strong north/south axis – more recently to the south of the site. It is not considered the harm arising is sufficient to warrant refusal, particularly given the scheme would facilitate the retention and continued use of important listed buildings within the village and conservation area, provide an overall enhancement to both, and not undermine the historical evolution of the settlement focussed along the north/south spine of Main Street.

Heritage considerations

Common Farm is separated from surrounding development by a paddock to the north and the orchard to the south. The CACS makes note of the visual break between Common Farm and the rest of the village to the south, along with the stone boundary wall enclosing the former orchard of which remnants survive. However it is not highlighted as an important open space within this Statement. The farmhouse will still remain as the dominant and visually important part of the wider complex of buildings, with the proposal reflecting a traditional 1 to 2 storey mix of barns subservient to it. The wall to the highway boundary is detached from the existing two-storey barn and as a result is not considered to be part of the listing although it remains an attractive feature within the conservation area.

The significance of the buildings is clear by way of their listing. They positively contribute to both the setting of the farmhouse and the conservation area, but whilst in reasonable condition the absence of a use (and therefore repair where necessary) they are vulnerable to deterioration. The proposal would secure a long term use to prevent this. It would also lead to the removal of the contemporary farm buildings in the immediate vicinity which presently cause harm to the setting of the listing as well as the appearance of the conservation area. This improvement is of considerable weight in favour of the proposal. Furthermore the enclosure to the western flank of the rear courtyard takes up an opportunity to draw on the existing contribution made by the

historic environment and ensure that the associated impacts of a residential use (such as parked vehicles, garden space and enclosures) are designed for in the most optimal manner.

Turning to the design of the extensions and plot 2 as a whole, these are considered to be in line with the steer given by the Conservation Officer. The scale and form are appropriate to their setting and do not detract from the primary focus farmhouse and intrinsic qualities of the existing barns. Conditions can adequately address matters of detail, such as materials, joinery and so forth; and it is considered the use of fixed glazed doors is not a concern. Such doors are non-opening with glazing limited to the top half of the door only.

Ecological considerations

The ecological surveys undertaken, as outlined above, highlight the main areas of interest relate to the impact on existing bat roosts and nesting birds. The latter can be appropriately mitigated for by way of timing of the works, interim nesting provision and long term nesting opportunities and enhancement. In reaching a decision in respect of the bats, consideration needs to be given as to whether the Council can satisfy its derogation requirements – namely that the three tests set out at Regulation 53 of the Habitat Regulations can be met. The three tests require:

- (i) The action will be undertaken for reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (ii) That there is no satisfactory alternative; and
- (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

It is considered that, as satisfactory survey work has been undertaken to establish the extent of the population of the protected species and appropriate mitigation can be secured to not only maintain but enhance their conservation status, the third test is met. In terms of the first two tests, the action arises from the environmental and social benefits of ensuring the long term retention of listed buildings which might otherwise suffer neglect and decay. It is therefore considered to be in the public interest to secure the conversion of the buildings, and there is not considered to be a satisfactory alternative. The bat mitigation can be secured by a similar condition to that for nesting birds, and coupled with other biodiversity improvements by condition the proposal is considered to be in line with planning policy.

The applicant has raised concern over the imposition of condition 19 noting the land is outside of the application site and is inappropriate in respect of the application scheme. The condition is not considered to be required to mitigate the impact of the scheme nor to make it acceptable, especially when the orchard will continue to be managed in the existing form, within the existing ownership. Upon consideration of this point it is considered that the condition can be omitted and the conditions below are amended to reflect this accordingly.

Highway safety impacts

Main Street is subject to a 30mph speed limit. A highways appraisal has been undertaken as part of the Planning Statement. Automatic Traffic Counters (ATCs) were

established at the site in October 2013. The resulting data shows that Main Street is lightly trafficked. The ATCs were also configured to record vehicle speeds, with data showing the northbound average speed to be 30.3mph whilst the southbound average was 33.9 mph (dry weather speeds). Residents raise concern over the timing of this survey as it fell, in the majority, across the half term for the Foremarke and Repton schools. Of the 7 weekdays the survey took place, 5 fell within this holiday. However, when considering the nature of the schools (i.e. there are a proportion of boarders and the primary route from the south and west for the larger Repton School is not along Main Street), the conclusion that Main Street is lightly trafficked (in relative highway safety terms) is not considered to be unreasonable.

The resulting stopping distance using MfS leads to required visibility splays of 39m northbound and 47m southbound. The visibility splays for the proposed agricultural access are in line with this and considered to be acceptable. The southerly splay to the existing access is also achieved. The area of concern initially related to the substandard nature of the northerly splay to the existing access, and whether there would be a material intensification in its use arising. Measurements taken show that the maximum visibility from a point 2.4m back from the kerbline is 21m in the northern direction as it is interrupted by the listed brick wall adjoining the farmhouse. This is below the 47m visibility required, and the recommended visibility can only be achieved from a point 1.2m back from the kerbline. Using the reduced set back of 2m recommended in MfS the visibility splay could be extended to 27.2m, but this too remains below standard.

The existing access will no longer be required to accommodate farm vehicles and this will remain the case given there will be no opportunity for farm vehicles to reach the remaining barn without crossing a private garden or the orchard (the latter of which could be enclosed by a suitable boundary treatment between plot 1 and the existing stone wall). The Highway Authority has considered the existing movements and types of vehicle versus the likely movements and vehicles associated with 3 additional dwellinghouses. Provided that all farm use ceases from this access they have no objection subject to other conditions. There is thus no highway safety concern.

Whilst residents note the road is often obscured by parked vehicles there is still sufficient visibility to achieve the required standard. There is no safety concern with a new access opposite an existing access, nor that farm vehicles could cause safety issues in using the new access. The loss of parking space on the public highway, or for school buses to stop, is noted. However this loss is not considered to cause material harm to existing informal and tolerated arrangements.

Consideration is also given to whether the gate on the agricultural access could impede traffic. It is shown to be approximately 6m from the carriageway, in excess of the normal 5m sought by the Highway Authority. They note that whilst they would usually ask for agricultural gates to be set back by 10m due to larger vehicles, when considering the relatively low vehicle flows on Main Street and the number of times a day that agricultural vehicles would be expected to use the access; it would be difficult to insist on the greater depth as any restriction to the flow of traffic is likely to be minimal. Indeed there is a further design impact if this were to be insisted upon.

The applicant has raised concern over the timing of condition 21 noting that it is not necessary to create the agricultural access prior to any other works commencing on site. This is agreed with access to the remaining agricultural building still possible through the existing farm access for some time after commencement of development.

Ultimately when boundary treatments for plot 1 are erected then this will create a pressure for the new access to be created. There is no concern with the requested change to the timing of this condition, but further consideration has been given to the scope for the access to be created without the rest of the proposal being implemented. The reasoning being that there is presently a suitable access to reach the agricultural building and in recognising the wider benefits of restoring the listed buildings, the harm arising to the conservation area by creating the access and track through the stone wall and orchard is considered to be outweighed accordingly. Evidently the harm is not outweighed if the access were to proceed alone. As such the condition has been amended as set out below.

Design and amenity impacts

Most of the design considerations are discussed above. Boundary treatments and hard and soft landscaping will also form part of the important considerations secured by way of condition. The visual impact on the existing stone wall along Main Street is a key point of concern from residents. This was a matter considered by the Conservation Officer during the pre-application stages, with an access resulting in a roughly equal divide of the wall (and orchard beyond) unacceptable. It is significant that no heritage concern was raised with the principle of siting the access to the southern edge of the orchard, minimising the interruption of the wall. Subject to a suitable gate and appropriate surfacing materials, it is agreed that the visual impact on the conservation area is acceptable.

The proposed layout provides for an acceptable standard of amenity between existing and proposed dwellings. The distance between the first floor window on plot 1 and Woodleigh is in accordance with the SPG.

Other relevant planning matters

The matter regarding flooding in Main Street is noted. However this is an existing issue which does not necessarily cause a highway safety issue or prevent access to property. As long as the new access is properly drained at greenfield rates, this existing problem should not be worsened. The same applies to surface water which arises from the conversions, although the demolition of buildings and creation of garden space would actually increase the permeable area at Common Farm. Foul water would be addressed under the Building Regulations.

Many representations question whether there is a need for the agricultural access given existing field accesses on Mount Pleasant Road and Milton Road, and that it would be more appropriate to re-site the barn at Mount Farm. Firstly it is not reasonable to expect the latter, especially when the barn and adjacent land is tenanted and thus may not necessarily remain as part of one agricultural enterprise. In terms of existing accesses on nearby roads, these are not metalled and would require investment in suitable access tracks across open farmland. Ultimately it would only be appropriate to push the applicant to look at alternatives if there were an unacceptable harm arising from the proposal before Members now. As set out so far any harm arising is not considered to be unacceptable.

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 for both applications subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 1128/9, 1128/10, 1128/11, 1128/12A, 1128/13A, 1128/14, 1128/15 and 1128/16; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.

3. No development involving the conversion and/or extension of the existing barns shall commence until a full schedule of works has been submitted to and approved in writing by the Local Planning Authority. The schedule shall be prepared by a conservation accredited architect, engineer or surveyor, or by another suitably qualified professional agreed in writing between the owner and the local authority, bringing in related disciplines as necessary. The schedule shall include:
 - a) Survey, recommendations and specification covering all structural work and repairs required to the roof carpentry, first floor structures and finishes, ground floor plates, internal and external walls. The extent of the specified works shall be sufficient to enable connection and installation of services, internal plastering of walls and upper storey ceilings, reinstatement of ground floors, internal fit out and occupation to proceed upon completion of the specified works.
 - b) Specification for stripping, insulating, felting, lathing and re-tiling the roofs, including flashings and abutments, installation of cast iron rainwater goods and downpipes, and their effective discharge to drains or soakaways.
 - c) Specification for replacement of all external joinery, including fitting, glazing and painting inside and out.
 - d) Provision of all additional details required by other conditions of this consent, as far as they relate to the existing buildings.
 - e) A photographic, itemised schedule of all historic ground floor surfaces and internal joinery including doors, cupboards, fireplaces and staircases, corresponding to floor plans. The schedule shall be made prior to the commencement of any works other than contents clearance or temporary propping/roof coverings where required. The schedule shall be supplemented with notes concerning which items are to be retained /repaired and which are to be discarded, and with further notes concerning the careful removal of any items that have to be temporarily removed to facilitate structural work, pending reinstatement.

Reason: In the interests of securing the listed buildings on the site, recognising their significance and condition.

4. No occupation of the barn conversions shall occur until the full schedule of works, as approved under condition 3, has been completed to the satisfaction, confirmed in writing, of the Local Planning Authority.

Reason: In the interests of securing the listed buildings on the site, recognising their significance and condition.

5. a) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- (i) the programme and methodology of site investigation and recording
 - (ii) the programme and provision to be made for post investigation analysis and reporting;
 - (iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (iv) provision to be made for archive deposition of the analysis and records of the site investigation; and
 - (v) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
- c) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

6. No works shall commence on site until a bird and bat mitigation strategy, in particular for swallows, barn owls and brown long-eared bats, has been submitted to and approved in writing by the Local Planning Authority. Such details should be based on the Ecological Mitigation and Enhancement Strategy (Plan ECO3 as part of the Bat & Bird Report July 2014) and shall include detailed specification and plans of interim and permanent long-term swallow and barn owl nesting facilities, interim and permanent long-term bat roosting facilities, and enhancements to provide a net increase in nesting and foraging opportunities for protected and other priority species; as well as means to ensure long term maintenance of and awareness of permanent facilities. The approved temporary measures shall be implemented in full prior to commencement of development, or as construction proceeds (whichever is relevant) and maintained throughout the duration of works, whilst the approved permanent measures shall be implemented in full as construction proceeds and prior to first occupation of the development and thereafter maintained as such.

Reason: To ensure that bird nesting and bat roosting opportunities are incorporated into the development so there is no overall loss of sites for these species.

7. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason: To safeguard any nesting birds that may be present on site.

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

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

9. Notwithstanding the submitted details, no development shall commence until full details or samples of the facing bricks to be used in the alteration, extension or construction of the dwellings hereby approved and attached new boundary walls/enclosures have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

10. No development shall commence until large scale details to a minimum scale of 1:10 of all new external joinery, and of the eaves and verge details to the new build parts of the development, relative to existing where adjoining, have been submitted to and approved in writing by the Local Planning Authority. The details shall include horizontal and vertical sections, precise configuration of opening lights, and cill and lintel details. The approved details shall be incorporated into the development.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

11. The precise type and sizes of the rooflights shall be agreed in writing by the Local Planning Authority prior to their incorporation in the development. The rooflights shall be fitted such that their outer faces are flush with the plane of the roof.

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

12. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the buildings unless specifically approved in writing by the Local Planning Authority. No development shall commence until the type, number, finish and position of heating and ventilation flues outlets, and any external plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards, have been approved in

writing with the Local Planning Authority. The approved details shall then be incorporated into the development.

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

13. Notwithstanding the submitted details, no development shall commence until precise details, including paving patterns, specifications and samples, of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme also approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and the setting of the listed buildings.

14. All rainwater goods shall be of cast iron with a black finish.

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

15. No development shall commence until the extent of repointing works have been agreed in writing by the Local Planning Authority. Pointing or repointing of the existing and proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand) and the finished joints shall be slightly recessed with a brushed finish. The works shall proceed in accordance with the approved details.

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

16. Prior to the construction of new walls to the dwellings, a sample panel of pointed brickwork 1 metre square, or such other area as may be agreed by the Local Planning Authority, shall be prepared for inspection and approval in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the buildings and the locality generally.

17. All brick and stone walls not forming a supporting wall of a dwelling (e.g. a boundary wall) shall be coped using natural materials in clay or stone respectively. No development shall commence until details of these walls and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The walls and other boundary treatments shall be erected in accordance with the approved details and thereafter maintained as such.

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

18. Notwithstanding the submitted details, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping, which shall include indications of all

existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

~~19. No development shall take place until details of a scheme to ensure the restoration and long term management of the orchard has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented prior to first occupation of the dwellings hereby approved and thereafter operated as such.~~

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

19. No development shall take place until details of a scheme to ensure the restoration of land to paddocks where buildings, structures and hardstandings have been removed has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in prior to first occupation of the dwellings hereby approved.

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

20. *The new vehicular access shall not be commenced prior to plot 1 being first available for occupation. The new vehicular access shall be created to Main Street in accordance with the application drawings, laid out, constructed and provided with the approved visibility splays (plan ref: 1128/16) in each direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.*

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

Informatives

- a) In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and meetings, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, and quickly determining the

application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

- b) The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.
- c) Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

Item 1.3

Reg. No. 9/2014/0716/L

Applicant:
Church Commissioners For England
C/O Agent

Agent:
Miss Jennifer Hadland
Smiths Gore
24 Coniscliffe Road
Darlington
DL3 7JX

Proposal: LISTED BUILDING CONSENT FOR THE DEMOLITION OF FARM BUILDINGS/STRUCTURES TOGETHER WITH THE CONVERSION, EXTENSION AND REPLACEMENT OF AGRICULTURAL BUILDINGS TO FORM 3 DWELLINGS AND GARAGING/CAR PORT SPACE AT COMMON FARM MAIN STREET MILTON DERBY

Ward: REPTON

Valid Date: 22/07/2014

Please refer to the combined report under application ref: 9/2014/0697.

Recommendation

GRANT permission for both applications subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 1128/9, 1128/10, 1128/11, 1128/12A, 1128/13A, 1128/14, 1128/15 and 1128/16; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.

3. No development involving the conversion and/or extension of the existing barns shall commence until a full schedule of works has been submitted to and approved in writing by the Local Planning Authority. The schedule shall be prepared by a conservation accredited architect, engineer or surveyor, or by

another suitably qualified professional agreed in writing between the owner and the local authority, bringing in related disciplines as necessary. The schedule shall include:

- a) Survey, recommendations and specification covering all structural work and repairs required to the roof carpentry, first floor structures and finishes, ground floor plates, internal and external walls. The extent of the specified works shall be sufficient to enable connection and installation of services, internal plastering of walls and upper storey ceilings, reinstatement of ground floors, internal fit out and occupation to proceed upon completion of the specified works.
- b) Specification for stripping, insulating, felting, lathing and re-tiling the roofs, including flashings and abutments, installation of cast iron rainwater goods and downpipes, and their effective discharge to drains or soakaways.
- c) Specification for replacement of all external joinery, including fitting, glazing and painting inside and out.
- d) Provision of all additional details required by other conditions of this consent, as far as they relate to the existing buildings.
- e) A photographic, itemised schedule of all historic ground floor surfaces and internal joinery including doors, cupboards, fireplaces and staircases, corresponding to floor plans. The schedule shall be made prior to the commencement of any works other than contents clearance or temporary propping/roof coverings where required. The schedule shall be supplemented with notes concerning which items are to be retained /repaired and which are to be discarded, and with further notes concerning the careful removal of any items that have to be temporarily removed to facilitate structural work, pending reinstatement.

Reason: In the interests of securing the listed buildings on the site, recognising their significance and condition.

4. No occupation of the barn conversions shall occur until the full schedule of works, as approved under condition 3, has been completed to the satisfaction, confirmed in writing, of the Local Planning Authority.

Reason: In the interests of securing the listed buildings on the site, recognising their significance and condition.

5. a) No development shall take place until a Written Scheme of Investigation for archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
 - (i) the programme and methodology of site investigation and recording
 - (ii) the programme and provision to be made for post investigation analysis and reporting;
 - (iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (iv) provision to be made for archive deposition of the analysis and records of the site investigation; and
 - (v) nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

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

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

6. No works shall commence on site until a bird and bat mitigation strategy, in particular for swallows, barn owls and brown long-eared bats, has been submitted to and approved in writing by the Local Planning Authority. Such details should be based on the Ecological Mitigation and Enhancement Strategy (Plan ECO3 as part of the Bat & Bird Report July 2014) and shall include detailed specification and plans of interim and permanent long-term swallow and barn owl nesting facilities, interim and permanent long-term bat roosting facilities, and enhancements to provide a net increase in nesting and foraging opportunities for protected and other priority species; as well as means to ensure long term maintenance of and awareness of permanent facilities. The approved temporary measures shall be implemented in full prior to commencement of development, or as construction proceeds (whichever is relevant) and maintained throughout the duration of works, whilst the approved permanent measures shall be implemented in full as construction proceeds and prior to first occupation of the development and thereafter maintained as such.

Reason: To ensure that bird nesting and bat roosting opportunities are incorporated into the development so there is no overall loss of sites for these species.

7. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason: To safeguard any nesting birds that may be present on site.

8. Notwithstanding the submitted details, no development shall commence until full details or samples of the facing bricks to be used in the alteration, extension or construction of the dwellings hereby approved and attached new boundary walls/enclosures have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

9. No development shall commence until large scale details to a minimum scale of 1:10 of all new external joinery, and of the eaves and verge details to the new build parts of the development, relative to existing where adjoining, have been

submitted to and approved in writing by the Local Planning Authority. The details shall include horizontal and vertical sections, precise configuration of opening lights, and cill and lintel details. The approved details shall be incorporated into the development.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

10. The precise type and sizes of the rooflights shall be agreed in writing by the Local Planning Authority prior to their incorporation in the development. The rooflights shall be fitted such that their outer faces are flush with the plane of the roof.

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

11. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the buildings unless specifically approved in writing by the Local Planning Authority. No development shall commence until the type, number, finish and position of heating and ventilation flues outlets, and any external plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards, have been approved in writing with the Local Planning Authority. The approved details shall then be incorporated into the development.

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

12. Notwithstanding the submitted details, no development shall commence until precise details, including paving patterns, specifications and samples, of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme also approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and the setting of the listed buildings.

13. All rainwater goods shall be of cast iron with a black finish.

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

14. No development shall commence until the extent of repointing works have been agreed in writing by the Local Planning Authority. Pointing or repointing of the existing and proposed buildings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand) and the finished joints shall be slightly recessed with a brushed finish. The works shall proceed in accordance with the approved details.

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

15. Prior to the construction of new walls to the dwellings, a sample panel of pointed brickwork 1 metre square, or such other area as may be agreed by the Local Planning Authority, shall be prepared for inspection and approval in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the buildings and the locality generally.

16. All brick and stone walls not forming a supporting wall of a dwelling (e.g. a boundary wall) shall be coped using natural materials in clay or stone respectively. No development shall commence until details of these walls and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The walls and other boundary treatments shall be erected in accordance with the approved details and thereafter maintained as such.

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

Informatives

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

Item 1.4

Reg. No. 9/2014/0731/B

Applicant:
Mr John Gilbert
The White House
Park Lane
Weston On Trent
Derby
DE72 2BR

Agent:
Mr John Gilbert
The White House
Park Lane
Weston On Trent
Derby
DE72 2BR

Proposal: THE REMOVAL OF CONDITIONS 1,3 & 4 OF
PREVIOUSLY APPROVED PLANNING APPLICATION
9/2013/0796 TO IMPROVE ACCESS FOR THE
COTTAGE AT THE WHITE HOUSE, 1 PARK LANE
WESTON ON TRENT DERBY

Ward: ASTON

Valid Date: 08/08/2014

*Members will recall deferring determination of this application pending a visit to the site.
No changes to the report have been made.*

Reason for committee determination

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been raised about a particular issue.

Site Description

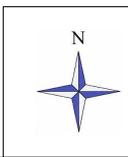
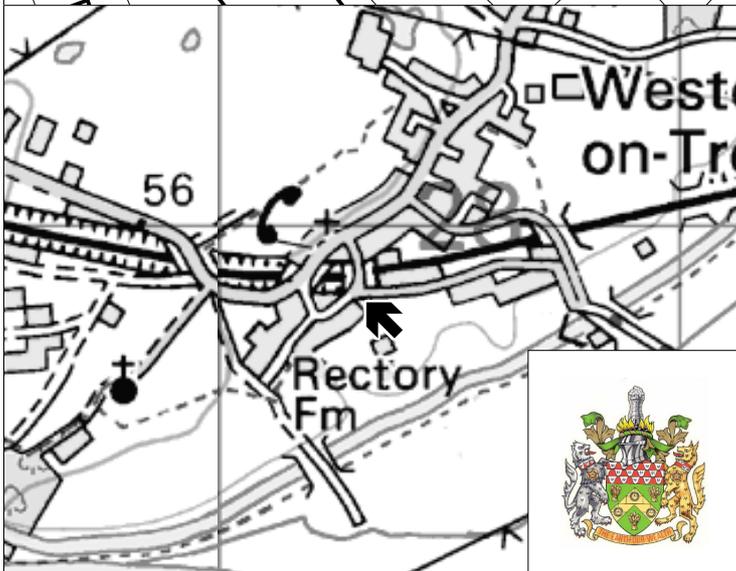
The application affects a dwelling that lies in the grounds of The White House. The roadside boundary is defined by stone walls, separated by the existing shared vehicular access to the site.

Proposal

The applicant proposes to remove three conditions attached to planning permission 9/2013/0796, which are:

1. Prior to The Cottage being taken into separate occupation, the access shall be widened to 4.25m in accordance with the application drawing and the entire site frontage boundary wall shall be lowered to a height of 1m relative to the level of the carriageway, these modifications being maintained throughout the lifetime of the development.

9/2014/0731 - The Cottage at The White House, 1 Park Lane, Weston on Trent, Derby DE72 2BR



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461. 2014

3. The lowered wall, required by Condition 1, shall be capped with the existing coping stones and shall be pointed using a lime mortar no stronger than 1:1:6 cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.
4. This permission shall relate to the amended drawing received 06 December 2013 showing in particular a 1.2m high post and rail fence between the properties.

The removal of conditions 1 & 3 would enable a revised access arrangement to be constructed to enable the property known as The Cottage to have a driveway separate to The White House. This would involve demolition of the wall to the left of the existing access. The removal of Condition 4 would enable the 1.2 m high post and rail fence to be aligned so as to form a defensible boundary between the two properties.

Applicants' supporting information

The wall at the front of the garden was built after 1948. Various post -1948 photographs have been seen by the applicant, showing only a small hedge. The Cottage is not listed and the only part of the wall to be removed is in front of that property.

Planning History

9/688/223 - Conversion of outbuilding to dwelling. Condition 3 tied occupation to household of The White House

9/2013/0796/B - removal of condition 3 of planning permission 9/0688/0223 for the occupation of accommodation as a separate dwelling

Responses to Consultations

The Highway Authority has no objection in principle.

Responses to Publicity

- a) The Parish Council is extremely concerned about the application, which affects the oldest house left in the village, a listed building.
- b) It is not clear whether there would be two accesses or a shared drive.
- c) The use of lime mortar for works to the wall is supported.
- d) The proposed fence would be unnecessary and an eyesore.
- e) A site visit should be undertaken to view the lane and the totally inadequate amount of parking for the main house.

Development Plan Policies

The relevant policies are:
Local Plan Saved Housing Policies 5 & 11, Environment Policy 13, Transport Policy 6.

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 12 (Conserving and enhancing the historic environment)
Paras 186 & 187 (Decision-taking)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations)
Annex1 (Implementation)

Planning Considerations

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

- Impact on the setting of the listed building and general character of the area.
- Highway safety

Planning Assessment

The application would result in the loss of most of the wall to the left of the existing access. The wall is different to the wall on the right hand side, in particular it does not have the traditional flat stone coping. Having regard to this, and the applicant's statement above, on the balance of probability the subject wall is not part of the historic fabric of the listed building. Therefore its loss would not harmfully affect the setting of the listed building, in conformity with Saved Environment Policy 13 and Chapter 12 of the NPPF. The remaining wall would be subject to minor works for visibility as with the extant permission 9/2013/0796. The simple post and rail fence to delineate the boundaries of the two properties would not be a dominant feature.

On the advice of the Highway Authority the proposal would not give rise to adverse highway safety conditions. As such the proposal would be in conformity with Local Plan Saved Transport Policy 6.

As a consequence of the above issues Condition 1 remains necessary (in amended form) insofar as it affects the remaining wall, in the interests of highway safety. Condition 3 also remains necessary as it requires reinstatement of the existing stone coping. Condition 4 needs to be amended to reflect the new boundary between the properties.

There are no other matters outstanding that require the re-imposition of the other conditions attached to planning permission 9/688/223.

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. Prior to The Cottage being taken into separate occupation, the new access shall be formed to Park Lane. The access shall be located in the position shown on the submitted drawing and shall have a width 3m in accordance with the application drawing and the entire site frontage boundary wall shall be lowered to a height of 1m relative to the level of the carriageway, these modifications being maintained throughout the lifetime of the development.

Reason: In the interests of highway safety.

2. Prior to The Cottage being taken into separate occupation, space shall be provided within the site curtilage for the parking of two vehicles for each of the two dwellings, laid and maintained thereafter free from any impediment to their designated use. Each parking space shall measure minimum 2.4m x 4.8m.

Reason: In the interests of highway safety.

3. The lowered wall, required by Condition 1, shall be capped with the existing coping stones and shall be pointed using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: To preserve the setting of the listed building.

4. This permission shall relate to the submitted drawing received with the application, showing in particular a 1.2m high post and rail fence between the properties.

Reason: For the avoidance of doubt.

Informatives:

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

If the boundary wall was erected before 1 July 1948 its alteration pursuant to Condition 1 will require Listed Building Consent.

Item 1.5

Reg. No. 9/2014/0748/FM

Applicant:
Mr Brian Davies
Brymar
Woodshop Lane
Swarkestone
Derby
DE73 7JA

Agent:
Mr Jeff James
Montague Architects Ltd
9 Vernon Street
Derby
DE1 1FR

Proposal: THE ERECTION OF 2 DWELLINGS INCLUDING NEW SHARED PRIVATE ACCESS DRIVE ON LAND TO THE REAR OF BRYMAR & WENGEN WOODSHOP LANE SWARKESTONE DERBY

Ward: ASTON

Valid Date: 06/08/2014

Reason for committee determination

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue, the committee should debate the issues in this case which are very finely balanced, and unusual site circumstances should be considered by the committee.

Site Description

The application site is located within the Swarkestone Conservation Area and comprises parts of the rear gardens to Brymar and Wengen. It also includes a small piece of land retained from an adjoining building project at The Corner. The site is a managed domestic garden situated within a residential area of mixed house types, the majority of which have been constructed since the 1960s. It is mainly laid to lawn with garden planting beds, small trees and managed boundary hedgerows.

The car park to the Grade II listed Crewe and Harpur public house lies at the eastern site boundary. The west boundary is shared with The Poplars and the recently constructed house at The Corner. The southern boundary abuts the rear garden to Corraithe, while the north boundary aligns with the rear garden of Willow Cottage, this property being set at a higher level fronting Barrow Lane. A new house is under construction in the side garden to Willow Cottage.

There is a protected Beech tree (TPO No. 371) adjacent to the site in the garden of Wengen.

Part of the site connects with Barrow Lane along the line of a former canal cut. There is a drop of about 2 metres from the road into the site.

Proposal

The application is submitted in response to refusal of permission for two larger houses (see planning history below) and now proposes two detached houses of conventional two storey design, omitting rooms in the roofs. The buildings would be aligned with their main elevations facing Brymar/Wengen and the Crewe and Harpur car park respectively. The main amendments to the scheme are as set out in the applicant's supporting information below.

A new vehicular access would be gained via the existing abutment with Barrow Lane along the line of the old canal. This would be shared with the garage permitted under 9/2013/1051.

Applicants' supporting information

The access arrangements remain as permitted under 9/2013/1051.

Following the refusal of permission 9/2013/1050 the design of the development has been amended as follows:

- The width of the principal gable walls has been reduced from 8.3 m to 6.9 m
- The overall height of the main roof has reduced from 9.1 m to 7.8 m.
- Whilst the majority of houses in Woodshop Lane are less than 60 years old, committee members indicated a preference for architectural references to be taken from Willow Cottage and other older properties in the village. An examination of local vernacular details was undertaken and the design now reflects those elements, for example, simple brick arched window heads, plain corbelled brick eaves and verges, single rebate cottage style casement windows, use of reclaimed natural stone work etc.
- Footprint areas slightly reduced and second floor roofspace accommodation removed altogether, in order to keep roof as low as possible.

The applicant has responded to the Committee's comments and every effort has been made to adjust/reduce the scale and mass of the proposed building. The overall roof height would now be the same as the dwelling currently under construction in the adjacent garden of Willow Cottage and the principal gable width would actually be a little less.

Planning History

9/2013/1050 – 2 dwellings and new access to Barrow Lane – refused by Committee for the following reasons:

1. The design of the two dwellings proposed would appear to have little regard to their setting and context. By virtue of their scale and particularly their large gables, the houses would appear cramped on the site when viewed from public vantage points and the surrounding properties out of keeping with the current pattern of development around the site and therefore detrimental to the character

and appearance of the conservation area. As such the development would be contrary to Housing Policy 5 and Environment Policy 12 of the South Derbyshire Local Plan, the Council's SPG 'Housing Design and Layout', and Chapter 12 of the NPPF and ID: 026 of the NPPG.

2. The proximity, scale and height of the north facing gable of the house proposed on plot one would appear overbearing to the occupiers of Willow Cottage to the north to the extent that their amenity would be unduly affected contrary to Housing policy 11 of the South Derbyshire Local Plan and the Council's SPG 'Housing Layout and Design'.

9/2013/1051 – Garage and new access to Barrow Lane – permitted. Visibility splays of 2.4m x 43m in both directions are required by condition.

Responses to Consultations

The Highway Authority has no objection subject to conditions as recommended below. In reaching its view the Highway Authority has clarified the extent of available visibility. Because of the alignment of Barrow Lane, the recommended 2.4m x 43 m visibility splay (as shown on the application drawing) has the effect of enabling drivers to see 88m within highway limits. Whilst this sightline extends a short distance into the carriageway the Highway Authority considers that drivers would not entirely lose sight of an approaching vehicle or motorcycle.

The Contaminated Land Officer has no objection in principle.

Responses to Publicity

Twelve neighbours raise the following objections:

- a) There would be overshadowing, overlooking and loss of privacy.
- b) There would be loss of open outlook from dwellings and public house.
- c) Tree loss would be harmful to the character of the area, contrary to Local Plan Housing Policy 5 and Environment Policy 12.
- d) The access would be dangerous and no provision exists for pedestrians. Accidents have increased in recent months. The road is unlit.
- e) Heavy traffic on the road will increase when Willington power station is developed.
- f) The design has not been fully researched as required by the Council's design guidance.
- g) There has been no involvement with the community.
- h) The development would be out of character with the village and conservation area and affect the setting of the listed Crewe and Harpur.
- i) The visibility splays permitted for the garage (9/2013/1051) cannot be achieved. Speed readings mean larger splays are required due to higher vehicle speeds.
- j) The village has no facilities.
- k) This is backland development and garden grabbing.
- l) The dwellings would be excessively tall.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Environment Policies 9, 11,12 & 13, Transport Policies 6 & 7.

The pre-submission Local Plan (Part 1) (“the emerging Plan”): Policy S2 (Presumption in favour of sustainable development) Policy H1 (Settlement Hierarchy) Policy BNE1 (Design Excellence) Policy INF 2 (Sustainable Transport) Policy BNE2 (Heritage Assets).

Housing Design and Layout & Historic South Derbyshire (local guidance)

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 6 (Delivering a wide choice of quality homes)

Chapter 7 (Requiring good design)

Chapter 11 (Conserving and enhancing the natural environment)

Chapter 12 (Conserving and enhancing the historic environment)

Paras 186 &187 (Decision-taking)

Para 193(Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

National Planning Policy Guidance ID7 (flood risk), ID18a (historic environment), ID21a (conditions), ID26 (design).

Planning Considerations

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

- The principle
- Impact on heritage assets
- Highway safety
- Residential amenity

Planning Assessment

The principle

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

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable*

development, which should be seen as a golden thread running through both plan-making and decision-taking.” The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

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

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

In terms of the current Local Plan, Saved Housing Policy 5 defines a village confine within which the site lies. As such residential development is supported in principle by the development plan. The emerging Local Plan Policy H1 identifies Swarkestone as a ‘Rural Village’ within which small scale development is favoured in principle. This is consistent with Paragraph 55 of the NPPF, as is Saved Housing Policy 5 of the adopted Local Plan.

Although the village has few facilities there is a regular bus service with a bus stop in the grass verge about 60 m away at the corner of Woodshop Lane. It is therefore not the case that the occupiers of the new dwelling would be reliant on the private car for travel. Paragraph 29 of the NPPF recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. This is echoed in the emerging Local Plan Policy INF 2. Given the limited scale of the development it does, in its rural context, represent sustainable development that is acceptable in principle, and thus also benefits from the presumption in Paragraph 14 of the NPPF.

Impact on heritage assets

The settlement comprises two distinct typologies of the built form. The east side of the river displays the collection of small cottages and farmsteads as described in the objections. However, as was observed by an Inspector in 1991, following a public inquiry into the refusal of planning permission for the land now occupied by the dwellings between Woodshop Lane House and Meadow Farm, the detached houses in the lane impart a somewhat suburban appearance to the area. In making his analysis of the area’s character the inspector noted the mix of traditional and modern buildings in Woodshop Lane and concluded that as a consequence of the post 1960s development this part of Woodshop Lane now lacks any sense of visual or architectural coherence. Similar comments can be applied to the development along Barrow Lane. It is this acknowledged context within which the visual impact of the proposed development must now be considered.

Compared with the previous scheme the design, form and scale of the new dwellings would now be consistent with the more traditional dwellings in the locality. In particular the dwellings would be no higher than the new dwelling under construction at The Willows and lower than immediate neighbours Brymar, Wengen and The Poplars, by reference to the topographical survey and the applicant’s stated site levels. The upper parts of the dwellings would be visible from Derby Road across the Crewe and Harpur car park (and from the car park itself), albeit subordinate to the backcloth of the roofs of

existing houses in Woodshop Lane and Barrow Road. In terms of impact on the setting of the listed building, and the conservation area in general, it would be difficult to describe the resultant change as anything but neutral. Although the line of the old canal and winding hole can still be identified it is now without any meaningful context as the entire link has long since been filled in. The proposed access would therefore not result in the loss of any meaningful heritage asset. As such the proposal would preserve the character of the conservation area and the setting of the Crewe and Harpur, compliant with Local Plan Saved Environment Policies 12 & 13, Chapter 12 of the NPPF and Policy BNE2 of the emerging plan. For similar reasons the dwellings would be in scale and character with the village in accordance with Saved Housing Policy 5 and Chapter 7 of the NPPF.

There would be some tree loss, in particular at the point of access. None of the trees that would be felled are particularly valuable as specimens in their landscape setting. Nevertheless the trees that provide screening to the Crewe and Harpur boundary would not be affected by the application. The Beech tree TPO 371 in the garden to Wengen would not be harmed by the development. Therefore there would be no adverse impact on the character and appearance of the conservation area, or the site's landscape setting, through the loss of trees. Appropriate new planting could be secured by condition in accordance with Local Plan Saved Environment Policy 9.

Highway safety

The Highway Authority has no objection. Furthermore the formation of the access to Barrow Lane has already been permitted by planning permission 9/2013/1051 and on the last occasion that application 9/2013/1050 was refused, no reason for refusal on highway grounds was included. Subject to the recommended conditions access, parking and manoeuvring space associated with the development, it would therefore be compliant with Saved Transport Policy 6 of the adopted Local Plan.

Given the close proximity of Woodshop Lane and the bus stop, accessible at close quarters via a reasonably wide verge, pedestrians would not be put to unacceptable risk. Because of this the proposal would be in conformity with Saved Transport Policy 7.

Residential amenity

The proposal comfortably meets the separation distances set out in the adopted supplementary planning guidance. With specific regard to Willow Cottage, the main roof of the proposed dwellings would be about 1.3 lower (with the rear flank roofs lower by about 1.8 m) than the refused scheme and because of the narrower gables would present a significantly lesser mass to the neighbouring dwelling. The driveway would be sufficiently far away from neighbouring dwellinghouses such that disturbance from traffic would not be unreasonable. Therefore there would be no demonstrable harm to the amenities of existing neighbours and reasonable amenities for the occupiers of the new houses. There would also be a reasonable environment for the public at large, adequate private amenity space and space for landscaping. Given the preceding assessment of highway safety issues, the layout would be safe functional and convenient, all in accordance with Saved Housing Policy 11 of the Local Plan.

Other Matters

The ecology report submitted with 9/2013/1050 identified measures to protect and enhance the site's habitat value. Appropriate conditions in accordance with the recommendations of that report would ensure compliance with Paragraph 118 of the NPPF and Local Plan Saved Environment Policy 11D.

Following previous assessment by the Council's Engineer there is no evidence that the development would exacerbate flooding or that it could not be drained.

Conclusion

The application addresses the committee's refusal reasons for the previous application and is meaningfully better. As such there are no adverse impacts that would significantly and demonstrably outweigh the presumption in favour of sustainable development in this case.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. This permission shall relate to the submitted drawing nos. 2123-14 Rev C, 2123-15 Rev B, 2123-21 & 2123-22.
Reason: For the avoidance of doubt.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.
4. Large scale details to a minimum scale of 1:10 of eaves, verges, chimneys and external joinery, including horizontal and vertical sections, precise configuration of opening lights and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in the building. The items shall be constructed in accordance with the approved details.
Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

6. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

7. Gutters and downpipes shall have a black finish.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

8. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

9. A sample panel of pointed brickwork/stonework 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

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

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13 and to ensure that the amenities of neighbours are protected in accordance with Saved Housing Policy 11.

11. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local

Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection.

12. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11, 12 & 13.

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11, 12 & 13.

14. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree to be retained on site. The scheme shall comply with BS 5837:2005.

No site clearance works or development shall be commenced in the vicinity of any protected tree until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created;

without the prior written consent of the Local Planning Authority.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11, 12 & 13.

15. Before the first occupation of the development, or in accordance with an agreed timetable, measures to enhance biodiversity on the site shall be implemented in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policy 11.

16. Before any other operations are commenced a new vehicular access shall be created to the A5132 Barrow Lane in accordance with application drawing no. 2123-14 Rev C, constructed to a minimum width of 4.75m for at least the first 5m into the site from the highway boundary. The access shall be provided with visibility splays of 2.4m x 43 m in both directions in accordance with drawing no. 2123-14C, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety and to comply with Local Plan Saved Transport Policy 6.

17. The development shall not be occupied until space has been provided within the application site in accordance with the application drawing no. 2123-14 Rev C for the parking and manoeuvring of residents', visitors', service and delivery vehicles, and shall be laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

18. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

19. There shall be no gates or other barriers within 5 metres of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

20. The proposed access drive to A5132 Barrow Lane shall be no steeper than 1 in 12 for the first 10 metres from the nearside highway boundary.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Economy, Transport and Environment Department of Derbyshire County Council before any works commence on the vehicular access within highway limits, please contact Joanne Mason on 01629 538612 for further information.

2. The Highway Authority recommends that the first 5m of the proposed access

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

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

Item 1.6

Reg. No. 9/2014/0725/FM

Applicant:
Mr Howard Joynes
Broadstone Farm
Broadstone Lane
Ticknall
Derby
DE73 7LD

Agent:
Mr Steve Banks
Groundworks Architects
Western House
Western Street
Nottingham
NG1 3AZ

Proposal: **THE ERECTION OF A DWELLING AND A FORESTRY BUILDING WITH SOLAR PV ALONG WITH INSTALLATION OF ACCESS TRACK, HARDSTANDINGS, DRAINAGE POND AND CREATION OF GARDEN SPACE ON LAND AT SK3724 4116 BOG LANE MELBOURNE DERBY**

Ward: **MELBOURNE**

Valid Date: **01/08/2014**

Reason for committee determination

The item is presented to committee as it is a development not in accordance with the Development Plan.

Site Description

The site lies within Broadstone Holt, an immature native mixed woodland planted under National Forest Tender scheme in 2007. The Holt forms part of a larger farm owned by the applicants, known as Broadstone Farm. Where not put to trees the farm is tenanted out for grazing and pasture purposes. The woodland is laid in patches with rides and clearings providing definition to each, and is currently managed by the applicants. Native species hedgerow mark the former edges of the fields now put to the woodland, with the north, west and eastern edges of the three fields dating from the Enclosures Act. The original southern edge has been compromised by the encroachment of the Staunton Harold Reservoir, but a mature hedgerow now exists to frame this boundary. The land slopes gradually from north to south, towards the reservoir, with the gradient increasing at the point of the application site. Beyond the site the land continues to water level before a rising densely wooded hill slope to the opposite side. Other emerging foothills exist around the reservoir providing some views towards the site, with the hill slope upon which the site is located rising further up towards The Common to the north. Beyond the dam wall of the reservoir the valley snakes towards Melbourne and the River Trent beyond.

Vehicular and pedestrian access is from Bog Lane to the north, with a public footpath crossing perpendicular to the Lane within the northern boundary of the aforementioned fields. A further permissive route has been established from the junction of Bog Lane with this public footpath southwards to the reservoir, passing through the proposed site. The sailing club building lies a short distance to the east on the shore of the reservoir, with the visitor centre and children's play area, overlooked by a former windmill, to the north-east. Isolated dwellings and commercial and agricultural buildings punctuate the upper half of the hill slope towards The Common, some partially or wholly masked from view by way of existing boundary trees or small copses. Most of these dwellings hug the line of The Common with one or two exceptions. Derby Hills Farm and Calke Abbey lie to the south, some distance from the site and close to the inlets to the reservoir. A cluster of industrial and utilitarian buildings sit to the east of the reservoir, partially screened by additional tree planting, and a circular concrete and glass block outlet tower characterises the upstream side of the dam wall.

Proposal

The proposal comprises of three main features: (1) the dwelling, (2) the agricultural building, and (3) the access, amenity and circulation spaces to each. The dwelling is designed over three floors, with the ground floor following the topography of the land resulting in a sunken lounge to the southern end, and the kitchen and living space on an east/west axis along with the car ports to the northern end. The first floor sits over this on the east/west axis, cantilevered over the adjacent hedgerow to the immediate west and slightly to the east, with a balcony running its length along the southern edge. A lift shaft and observatory/study provide the upward projection of the second floor accommodation.

The forestry building sits separate to the dwellinghouse to the west of the existing hedgerow which divides the site. This would provide for storage needs associated with management of the woodland into the future. It also carries a pitched roof section to facilitate installation of solar PV for the electricity needs of the building and dwellinghouse. The building would be fronted by hard standing which connects to the main drive to the house, leading off the end of Bog Lane. The driveway would feature a turning head close to its junction with Bog Lane. To the south of the dwelling a ha-ha would provide the primary amenity space off a level terrace with the ground floor, whilst a subterranean chamber would provide surface water storage for use in electricity generation through a pico-hydroelectric system before it drains to a pond to the southern edge of the land. Existing woodland would be largely retained in close proximity to the dwelling, although some trees would be lost. A compensatory area of woodland planting is proposed adjacent to the forestry building and yard.

Applicants' supporting information

The Design and Access Statement (DAS) explains and supports the proposed design, having regard to published design guidance and expanded to address the specifics of the NPPF paragraph 55 requirements. It outlines that the proposal would provide a new home for the applicants and their base for stewardship of the surrounding woodland, established as part of the National Forest. It is considered the proposed house is to be an exemplar in terms of design and sustainability and for these reasons should be deemed to fulfil the requirements of paragraph 55.

Notably they consider the design is both outstanding and environmentally innovative. The house would be the most significant example of contemporary modern architecture in the area and the lowest energy use building in the whole of South Derbyshire and amongst the lowest energy homes nationally. The design includes a combination of best practice renewable energy sources used in innovative ways. It is also easily accessible to view from public footpaths and will act as an advertisement for well designed, ultra-low energy architecture. They believe the design reflects the highest standards in architecture and caters for the physical accessibility needs of the applicant. It utilises local materials – primarily locally sourced brick and English oak – to create a rigorous and simple, minimalist modern design. The design significantly raises the level of architecture in its immediate surroundings and has achieved endorsement from OPUN after being submitted for Design Review. It is considered the building will significantly enhance its immediate setting, providing a residence on site for the stewardship of the forest plantation and enabling the forest to be managed and coppiced for the production of biomass fuel. The design is sensitive to the defining characteristics of the local area, respectful to the historical grain of the site, established routes, views and landscape features. The design also follows an established trend since the creation of the reservoir in the 1960s for development of new buildings focusing on the reservoir, either for industry, recreation, or enjoyment of the view, with it argued that the defining characteristic of the area is no longer estate farmland, but reservoir hinterland, and this building fits into that new dynamic. The visual representations demonstrate that the house has an almost negligible impact on views around the reservoir and on public footpaths and roads.

The Environmental Design Report (included as part of the DAS) states that the proposed dwelling would generate 38% more energy than it uses with the building achieving this target through a highly energy efficient design combined with a significant amount of renewable energy technology. It would be built to the 'Passivhaus' standard which includes highly insulated walls, roof and floor; high performance windows and doors; a very airtight structure; a mechanical ventilation system with heat recovery; and thermal bridge free design. The building would generate 138% of the energy it uses and will therefore be carbon positive with the renewable technologies proposed to generate this energy including 50m² of high efficiency solar PV cells; 10m² of solar thermal panels; a ground source heat pump and a pico-hydroelectric turbine. It is considered the building would be exemplary in the UK as one of the first carbon positive individual domestic dwellings to be built. It also noted the energy use of the dwelling could be lowered further still by the use of innovative new phase change materials, solar PV systems with integrated battery storage and a solar slab to store excess summer heat for the winter months.

An Ecological Survey notes a number of the young trees/shrubs would have to be removed during the development, but because of their young age and small size they are still of relatively low conservation value. The number to be removed is considered unlikely to have a significant impact on the wider plantations and it is also understood that a 2-for-1 mitigation planting of similar species, along with an additional orchard, is to be established elsewhere within Broadstone Holt. The grassland directly affected by the proposed development is species-poor and of low ecological value and the created pond within the development site is already defunct. It is understood that a new pond would be created as part of the development. Taking into consideration the low ecological value of the habitats affected, and the mitigation proposals, it is felt that the overall ecological impact of the development is likely to be low.

Accurate Visual Representations (AVRs) are provided showing existing, 1 and 15 year views from around the site and reservoir. These are supported by a method statement to outline how such images are created to ensure accuracy.

Planning History

None

Responses to Consultations

The Environment Agency notes the development is outside the floodplain in Zone 1 with the built development less than 1 hectare such that it is covered by Flood Risk Standing Advice. They also note that whilst non-mains drainage is proposed (septic tank) the site is not in a sensitive groundwater area.

The County Development Control Archaeologist comments there are no known archaeological constraints within the site and no indicators in the vicinity that there is likely to be previously unknown archaeology. The site was assessed in 2006 as part of the National Forest Grant Scheme, and was considered at the time to have little archaeological potential, and in the intervening period there has been substantial ground disturbance associated with woodland creation. In light of these observations they consider the site has minimal archaeological potential and recommends that there is no need to place an archaeological requirement upon the applicant.

The County Highway Authority notes that Bog Lane is a non-classified public highway serving a small number of properties. Whilst the Lane is single width throughout its length there are some areas which are suitable for passing and the junction with The Common is considered satisfactory in visibility terms to accommodate the additional traffic anticipated. They therefore raise no objections subject to condition to secure sufficient parking space.

The County Public Rights of Way Officer advises that Melbourne Public Footpath No. 27 crosses the site along the northern boundary of the Holt. They ask that the applicant is made aware of the legal alignment of the route and raise no objection subject to informatives as the proposal as it does not appear to affect the route.

Peak & Northern Footpaths has no objection to this application provided that at all times the full width of Melbourne Public Footpath No. 27 and nearby permitted paths remain unobstructed.

The National Forest Company (NFC) notes the proposal is sited on Tender Scheme funded woodland and their strong preference is not to see alternative uses coming forward on such woodland sites, in particular private facilities, as the woodlands have been created on the premise that they will be long-term forested sites providing a range of public benefits. Erosion of these sites goes against the spirit of what they are seeking to achieve and will impact upon their overall integrity and their ability to optimise the long-term objectives. The NFC notes that the proposal seeks to withdraw the current open access arrangements on a section of land in order to facilitate the development, and they will be seeking from the applicant a claw back of a portion of the grant initially awarded. They also note the siting will adversely affect the permissive route from Bog Lane through the site to the public footpath along the edge of the reservoir, with the woodland originally designed to accommodate this route. While access to the reservoir

will still be possible, it will be less direct and less legible. Consequently they consider the proposed sign at the entrance of the woodland from Bog Lane should show the layout of the woodland, where public access is permitted and how the reservoir can be accessed. The NFC notes the scheme proposes a two for one replacement of every tree lost and the planting of an orchard, but consider this should be quantified to demonstrate that this rate of replacement has been achieved. They also note they would prefer for the replacement planting (with public access) to take place outside and adjacent to the existing woodland, rather than planting on grassland within the woodland which still result in a net loss of open access land, as well as seeking condition to ensure adequate tree protection measures given the close proximity of the proposed building, barn, access and service/drainage runs to the retained trees, as well as details of how the hedge line under the cantilevered bedroom will be protected. The NFC notes the reports and visuals submitted but in addition to this wider impact, they consider that the proposals will have an urbanising effect within the woodland itself. They consider that the loss of trees and hedgerows should be minimised to ensure that the dwelling retains a woodland setting and is designed to emerge from the wood rather than standing out from it. The surfacing of the proposed access and boundary treatments should also be agreed by condition. Finally the NFC considers that the opinion of an independent Landscape Architect should be sought, recognises that the building has been designed to minimise energy demand (although noting this aspect is not grounds to permit the scheme based solely on these merits), and can see that a high eco-spec house could be a significant addition to the housing stock of the District.

The Council's Tree Officer notes this is a newly planted site consisting of young, juvenile trees in a close growth, even aged plantation. It is considered the proposed development, involving the removal of some trees, will have little effect on the amenities enjoyed by the public.

Responses to Publicity

Melbourne Parish Council objects on the grounds that:

- i) the proposed development is in the middle of a green area and is unwarranted, and
- ii) it is considered to be outside of the Development Plan and an intrusion into the countryside.

Melbourne Civic Society objects raising the following comments:

- i) they consider this an application for a spectacular modern house in a spectacularly wrong place, contrary to all local and national policy guidance;
- ii) they note the applicant is a local property developer and lives in a large modern house close to the application site;
- iii) they consider the arguments put forward in the DAS are spurious and flawed as no-one needs to live in a wood in order to manage it effectively;
- iv) if granted it would open the floodgates for new dwellings in every wood and on every field;
- v) the suggestion that this dwelling is designed to accommodate the disabled status of the applicant exposes the weakness in the whole submission – how a wheelchair bound person is to manage a forest on this site if it cannot be managed from the existing farmhouse only a stone's throw away; and

- vi) it is of grotesque design that is entirely inappropriate in such a sensitive rural landscape.

The Melbourne Footpaths Group objects for the following reasons:

- i) it will reduce the enjoyment of walkers on Melbourne Footpath 27 by interrupting the present fine rural views across the reservoir
- ii) the proposed access track will cut across Melbourne Footpath 27 and will lead to an increase of traffic along Bog Lane, a popular walking route and an Other Right of Way with Public Access;
- iii) the present well used permissive path south of Bog Lane will be lost;
- iv) there will a loss of biodiversity (hedgerows and trees) and potential harm to wildlife during and after construction;
- v) the development will not make any measurable contribution to Melbourne's sustainability;
- vi) solitary buildings in rural settings are discouraged under NPPF paragraph 55;
- vii) the design of the building is spectacularly out of place in this location;
- viii) National Forest woodland plantations are meant to have a positive effect on the wider environs, and they believe that this will have a negative effect on the enjoyment and appreciation of this area; and
- ix) it will set a precedent for every woodland owner in the National Forest to request the construction of a house in the midst of their wood to facilitate its management.

5 objections have been received raising the following concerns:

- a) the proposed house is not within an existing settlement area, on agricultural land and not building land;
- b) there is no necessity for this location;
- c) the applicants already live nearby and whilst the applicant's needs are understood, surely it would be preferable to build a new house next to their existing one
- d) the proposal does not significantly enhance its immediate setting;
- e) its industrial like appearance does not compare to the traditional style houses of Bog Lane and the wider area;
- f) both buildings look highly industrial;
- g) the proposal is not sensitive to the defining characteristics of the area;
- h) the contemporary architecture is out of keeping with the strong historic character of the local area;
- i) dispute that it is an innovative design as there are many similar designs which have been around since the 1930s;
- j) current building codes already specify very high standards;
- k) the applicant appears to have based their design on the waterworks on the other side of the reservoir, which is there because it serves a purpose whereas the proposed dwelling and out building does not;
- l) the National Forest grant was awarded under covenant to ensure access to that land by the public, and the scheme was not conceived as a means to create building land;
- m) the re-routed path is not a preferred path as there is no stile at the bottom;
- n) the location of the proposal is frequently used by villagers for leisure and dog walking on a daily basis;
- o) it will reduce the enjoyment of walkers on the public footpath;

- p) negative effect on the enjoyment and appreciation of this area;
- q) little clear information as to where the new footpath to the reservoir will be;
- r) a building of this size would diminish the beauty of the natural landscape;
- s) the building would be a prominent eyesore from many points along the footpath;
- t) the south facing windows would overlook the path and field below, significantly affecting the privacy of those using it for recreation;
- u) the applicant argues on one hand that the building will "significantly enhance its immediate setting" being visually accessible and acting as an advertisement for well-designed ultra-low energy architecture, whilst on the other hand they say that "it will be relatively hidden from view and secluded".
- v) adverse effect on nocturnal species such as badgers, foxes and owls as well insects and birdlife;
- w) a loss of hedgerows and trees;
- x) cars already drive down Bog Lane assuming they can access the reservoir and this would further escalate the problem with people potentially parking to view the property;
- y) extensive traffic will damage to the lane causing potholes and the upheaval of dust and stones, generating pressure to upgrade the surface leading to an urbanising effect;
- z) the safety of walkers using the existing footpath coming from the reservoir across the two fields to Bog Lane;
- aa) the proposed turning head could pose a danger;
- bb) the development will not make any measurable contribution to Melbourne's sustainability;
- cc) solitary buildings in rural settings are discouraged under NPPF paragraph 55; and
- dd) the comments of OPUN have been paid for and they should not hold a great deal of credence.

A single representation in support has been received commenting that it is positive to see environmental factors in building a new house being taken into account, and although some may question the design it will challenge the status quo of local design.

Development Plan Policies

The relevant policies are:

- Saved Local Plan ("the LP1998"): Environment Policies 1, 5, 7, 9, 10 and 14 (EV1, EV5, EV7, EV9, EV10 and EV14), Housing Policy 8 (H8), Recreation and Tourism Policy 5 (RT5) and Transport Policy 6 (T6).

The emerging policies are:

- Submission Version Local Plan Part 1 ("the LPP1"): Policies S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

National Guidance

- National Planning Policy Framework (NPPF) with particular reference to paragraphs 6 to 9, 14, 17, 32, 35, 47, 49, 55, 58, 60, 61, 63, 65, 74, 75, 96, 106, 109, 118, 139, 215 and 216.
- National Planning Practice Guidance (NPPG).

Local Guidance

- Housing Design and Layout SPG (2004)
- Better Design for South Derbyshire (2010)

Environmental Impact Assessment

A formal Screening Request was received prior to the submission of this application. Accordingly the proposal has been screened under Regulation 5 of the Environmental Impact Assessment (EIA) Regulations 2011. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Considerations

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

- The principle of development;
- Whether the proposal is outstanding or innovative (para 55 NPPF);
- Impact on the character of the area and local landscape;
- Effect on public use of the land;
- Biodiversity impacts; and
- Highway and pedestrian safety.

Planning Assessment

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The saved policies of the LP1998 presently form the Development Plan, although the NPPF and LPP1 are material considerations alongside replies from statutory and technical consultees, as well as third parties. All these will carry varying degrees of weight.

The principle of development

The proposal lies outside of any defined settlement boundary within open countryside. In such locations LP1998 policies H6, H7 and H8 make allowances for limited housing development. None of these policies are considered to provide the scope for the proposal here, with H6 and H7 not applicable whilst H8 only allows for replacement of existing dwellings and new dwellings where it can be demonstrated the occupier needs to reside at their place of work (i.e. agricultural dwellings). The latter is ruled out given the application is not supported by evidence to outline such a need, despite it being

acknowledged that the occupier would oversee management of the Holt. The proposal is therefore in conflict with the Development Plan.

The NPPF draws a slightly wider allowance for isolated dwellings in the countryside with paragraph 55 reflecting the slight shift in national planning policy since the publication of the LP1998. In this respect the degree of weight which can be afforded to H8 is tapered somewhat. Two new allowances are given. One is “enabling development” where a capital receipt needs to be raised to fund the restoration of a heritage asset. This is not applicable to this proposal. The other is for dwellings of design which exhibits “*exceptional quality or innovative nature*”. In recognising both the very high bar set as well as the subjective nature of interpreting this allowance, the NPPF states “*such a design should:*

- *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;*
- *reflect the highest standards in architecture;*
- *significantly enhance its immediate setting; and*
- *be sensitive to the defining characteristics of the local area”.*

The structure of this policy requires all of the above criteria to be fulfilled. It therefore follows that if the proposal can fulfil these requirements, then it should be regarded as sustainable development in principle – drawing support from paragraph 14 of the NPPF unless other impacts would be adverse and significantly and demonstrably outweigh the benefits arising.

Whether the proposal is outstanding or innovative

It should be noted that although a very high level of environmental sustainability has been a feature of a number of schemes that have received approval outside of the District under previous national policy, this criteria is not mentioned specifically in isolation in the NPPF and it is the quality of the overall approach combined with the need for any new development in the countryside to be sensitive to its setting and have a light touch from a general sustainability standpoint, that has generally invoked the exception. The layout, hard and soft landscaping, scale, massing, height, orientation, construction makeup, performance, detailing and materials are all relevant to this part of the assessment. The way the design facilitates low dependence on centralised energy sources or self-sufficiency for instance is also pertinent. Officers, including the Design Excellence Officer, have been heavily involved in pre-application discussions before and during its consideration by the OPUN Design Review panel. This panel is made up of independent experts from varying fields – town planning and urban design, landscape architecture, architecture and sustainability – such that their views can be given credence.

The overall design is bold and distinct from the surrounding trend of dwellings in the vicinity. To some this may offend with it at first glance failing to relate to the local vernacular or this specific site. However the philosophy of this proposal draws on a number of key features – the woodland and the reservoir with associated topography and positions being integral to this. The existing features on the site, such as hedgerows and forest rides and clearings, have been used to position the proposal in order not to appear overly prominent, at least in the long term. The Design Panel considered “*the horizontal language and linear form... to be an effective approach referencing the strong linearity of the existing site (i.e. hedgerow and ditch)*”. This view

is agreed with the main bulk of the building following these pre-existing lines and setting into the hill slope at the most opportune point – where there is an increase in gradient towards the water. The length of the elements and cantilevered form of the building reach out towards the reservoir without causing an incongruous intrusion in this otherwise largely undeveloped landscape. In this context the building is read more as an association with the water and woodland instead of being detached from other buildings on Bog Lane and The Common. It is agreed that the proposed vernacular responds well to the reservoir, with the existing sailing club building and water outlet tower on the dam wall providing design cues for this proposal. The horizontal emphasis on materials follows the principles established above, with the timber boarding helping to assimilate the proposal within the woodland to a degree whilst the inclusion of local brick (notwithstanding the proposed plans) on the lower floor draws in the historical vernacular to good effect.

The internal layout of the building provides significant opportunities for solar gain with lighting of circulations spaces from above. Deep overhangs and opening windows control overheating in mid-summer. This single point helps to significantly reduce dependency on artificial heating and lighting sources from the outset. The construction is to also ensure an air tight solution, with mechanical heat-recovery ventilation and lack of thermal bridges to conductive transfer of heat, ensuring performance at 'Passivhaus' standards. On-site energy generation including photovoltaics, a ground source heat pump to supply underfloor heating and solar hot water heating would combine to provide a "carbon positive" house – one which is designed to make a net contribution in energy terms. Electricity is to be stored through on site batteries, lighting is to be LED type luminaires, and surface water is to be harvested and periodically released to generate electricity through a pico-hydroelectric power unit exploiting the natural fall on the site. A solar slab would be implemented to store and release heat from the earth in the winter whilst adding to cooling needs in the summer. Phase change materials within the building's fabric would also absorb large amounts of heat in order to reduce the effects of overheating as the thermal energy is used to undergo a phase change in the material (i.e. transform it from a solid to a liquid). A trial of phase change materials is to be run as a research project in collaboration with the University of Nottingham. The pico-hydroelectric power unit is also developed by the University of Nottingham. Both technologies offer an opportunity for ongoing educational research with it possible that the University be involved in energy monitoring of the house to evaluate its actual performance.

Whilst no longer a specific criterion this is considered to be an exemplar approach to eco-friendly housing. An Energy Performance Assessment demonstrates that the dwelling would only require 22% of energy normally commanded by a dwelling built to current building regulations, and approximately 38% more energy than is required would be generated on site. The Assessment also confirms the dwelling would meet level 6 requirements for the Code for Sustainable Homes. This dwelling would therefore be exemplary in the UK as one of the first carbon positive individual dwellings to be built. Even if such efficiencies outlined are "lost" when factoring in human preference and occupants' desires (e.g. opening a window for ventilation instead of relying on the designed solution), the performance is not considered to drop so dramatically to undermine this conclusion.

So far it is considered that the first two and final criteria of paragraph 55 are fulfilled. The remaining criterion is particularly subjective and thus requires very careful consideration.

The Design Panel commented on a need to develop the landscape strategy more comprehensively to demonstrate how the building connects and interacts with the landscape to ensure a strong relationship. In the proposals now submitted attention has been given to boundary and surface treatments, ensuring their alignment with the building to strengthen the design approach. Whilst the sustainable site features, such as the holding tank for the pico-hydroelectric power unit, are not celebrated as hoped; this is not considered to be a fundamental issue. In terms of providing an enhancement to the immediate setting, creation of built form on an otherwise blank canvas can provide an enhancement if it serves to make others aspire to the highest standards of architecture and construction. It is considered that this proposal is of the highest standards and when taking in wider views towards the proposal and balancing these against individual perception of the development; whilst some may see it as an intrusion, it would be ameliorated to a considerable degree by way of its siting within the woodland, its horizontal emphasis, its non-domestic appearance, the material palette and direct views being limited in number. In brief the proposal provides the benefit of exemplar design and the associated standard for others to aspire for without causing an adverse impact on the landscape.

As an interim summary it is considered the proposal achieves compliance with the four criteria under paragraph 55 of the NPPF. The exceptional circumstances for a dwelling to be supported in principle are considered to exist such that attention turns to whether the harm arising would be adverse and significantly and demonstrably outweigh the benefits arising.

Impact on the character of the area and local landscape

To a degree this matter has already been discussed above. Greater attention is given to the effect of this proposal on the wider character of the area and environs. A set of Accurate Visual Representations (AVRs) have been supplied demonstrating the visual impacts after 1 year and after 15 years from a number of viewpoints above and below the site and around the reservoir. These demonstrate that at long distance the impacts are relatively limited although the dwelling would still be read as the first non-waterside structure south of the public footpath on this hill slope. Nevertheless clear aspects are constrained to a limited number of public view points – namely just below the dwelling on the reservoir-side track, the public footpath away from the windmill to the north-east, and along the southern approach down Bog Lane. Elsewhere the views are limited to glimpses which would be lost as quick as they are gained. On a landscape basis the predominant reservoir hinterlands character is not materially harmed.

Focussing on the aforementioned views, the first and second would be mitigated by passage of time and the material choices as the building becomes lost within the maturing Holt. During winter months this “blending” between vegetation and built form would still exist although to a lesser degree, and internal illumination would also draw attention in hours of darkness. Nevertheless this is likely to be comparable to other developments in the vicinity. As to the views down Bog Lane, these would be a succession of widening aspects up to the junction with the public footpath. The cantilevered element would obstruct views towards the reservoir from one of the two clear north/south visual corridors through the Holt, whilst the driveway would draw considerable attention to it. Nonetheless the driveway would also act as delineation between public and private space whilst the generally solid and plain northern elevation terminates the view without significant light pollution or domestic paraphernalia in sight.

Views from other angles around the Holt would have similar results. As the woodland matures it is felt that the development would weather and nestle into the hillside and surrounding trees so that the overall character of the Holt – a publically accessible woodland helping to set the wider National Forest characteristics.

Effect on public use of the land

The Holt is subject to National Forest Company (NFC) control in that it is permissive woodland with public able to walk the rides in any manner they wish. The NFC has concern that the proposal would undermine the intentions of such woodland, going against the spirit of what they are seeking to achieve. The main concern focusses on the dwelling obstructing the existing permissive route. Observations indicate this route is reasonably well used with grass kept short by passage of walkers, although much less frequently used than the public footpath. The key question is whether the development would preclude or significantly discourage public passage through the Holt.

While access to the reservoir would still be possible, it would be less direct and less legible – particularly for those approaching the Holt from Bog Lane. The NFC's request to amend signage at the entrance from Bog Lane is not unreasonable in this respect. It is also noted the intention is to shift the publicised permissive route to the western limits of the Holt. Although this would still not prevent use of the intervening rides as a route to and from the reservoir, it is less inviting for users approaching from Bog Lane given the significant detour required and less interactive with the woodland solely to one side of this walk. Paragraph 75 of the NPPF states Councils should seek opportunities to provide better facilities for users. In this respect it is not appropriate to accept such degradation to existing free range access when the merits of the scheme do not command it. However permissive routes are just that – they are not defined in law and thus should not necessarily be conditioned as such. Instead the need to amend signage accordingly as well as secure a new access interface onto the reservoir footpath can be subject of condition to ensure an appropriate response.

Biodiversity impacts

A number of the young trees would be removed during the development, but because of their young age and small size they are still of relatively low conservation and amenity value. The number to be removed is considered unlikely to have a significant impact on the wider plantation and the 2 for 1 mitigation planting of similar species, along with an additional orchard, is adequate to secure a net enhancement. The NFC seek that the planting is on land beyond the existing Holt to provide an overall increase in woodland, but this is not considered necessary nor reasonable given the degree of tree loss involved. Remaining trees can be protected by way of condition to ensure appropriate construction techniques so not to compromise their longevity.

The grassland directly affected is recorded as species-poor and of low ecological value with the existing pond already defunct. The Wildlife Trust has not responded to consultation but it is considered the submitted assessment is accurate and representative of the situation on site. A new pond is to be created as part of the development and this would again serve as an enhancement.

Highway and pedestrian safety

There is not considered to be a highway safety issue arising from the proposal. Further consideration is given to the effect on walkers using Bog Lane, the public footpath and the Holt during and after the course of construction, but conflict is considered to be unlikely and at worst only to cause an inconvenience whilst traffic is passing.

Summary

The stewardship of the woodland is not integral to the recommendation reached as set out below. The assessment is based on a stripping back of such considerations as if the proposal were not to serve as a home for the existing landowners and instead turns on whether the proposal fulfils the tight criteria set out in paragraph 55. It is ultimately a matter of judgement whether the proposal fits within the exception of prevailing national planning policy and whether the harm to the countryside is outweighed by the benefits arising. This is no doubt a matter Members will wish to decide for themselves, but the opinion and recommendation below is that the proposal can be supported as an exception to the general rule.

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 and the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to ensure the Holt remains under the same ownership/control as the dwellinghouse:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 13/10/00 Rev A, 13/10/01 Rev A, 13/10/10 Rev A, 13/10/11 Rev A, 13/10/20, 13/10/21, 13/10/22, 13/10/23 and 13/10/24; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt and to ensure the proposal acts to enhance the standard of architecture more generally.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the dwelling hereby permitted shall not be altered, enlarged or extended; no hard surfaces, buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be installed/erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, the nature of the property and its long term energy and efficiency performance, having regard to the setting and size of the development.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 1995 (as amended), no buildings shall be erected, extended or altered; no private ways shall be formed or altered; or other operations shall take place without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: In the interests of preserving the setting of the woodland and to ensure the building hereby permitted remains in an appropriate form suitable for the management of that woodland.

5. The forestry building hereby permitted shall be used solely for purposes associated with the management of the woodland, defined as Broadstone Holt and outlined within the blue line on the location plan submitted with this application, and not be sold or let separately to the dwelling hereby permitted.

Reason: To ensure the stewardship of the woodland remains associated with the dwelling hereby approved so to reduce future pressure for additional buildings and/or dwellings, in order to protect the privacy of occupiers of the dwelling, and in the best interests of effective management of the woodland.

6. The car port and visitor parking space shown on the approved plans shall not be enclosed and remain unobstructed for the parking of vehicles.

Reason: To ensure that parking on the hardstanding adjacent to the dwelling is discouraged in order to ensure the design quality of the dwelling is not harmed when viewed from public aspects.

7. No development shall commence until a scheme to amend signage and publicity material relating to permissive routes through and public use of Broadstone Holt has been submitted to and approved in writing by the Local Planning Authority. The existing preferential permissive route obstructed by the development shall be accommodated within the heart of the woodland and not to its perimeter, with details supplied to demonstrate satisfactory connection to public routes around the reservoir. The approved details shall be implemented and the new preferential route be open for use prior to any development commencing.

Reason: In recognition of the fundamental aim of the woodland and its very existence, and that desire lines from the public footpath to the reservoir are limited to two main north-south corridors.

8. No development shall commence until details of the finished floor levels to the forestry building and yard (and the dwelling and surrounding ground/structures should there be a need to adjust these accordingly) have been 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 ensure the visual and landscape impact of the buildings hereby approved reflects that considered in assessment of the proposal.

9. No development shall commence until details precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the floors, walls, windows and doors, ceilings and roofs of the buildings (including the balcony and solar shading solutions), and of the external face of the ha-ha, have been submitted to and approved in writing by the Local Planning Authority. Where brick, stone or block is to be used on external faces of the dwelling or ha-ha, a sample panel of pointed brickwork/stonework/blockwork no less than 1 metre square shall be prepared for inspection and approval in writing

by the Local Planning Authority prior to incorporation of such materials into the dwelling. Thereafter the development shall be constructed in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally, and to ensure the dwelling achieves Passivhaus standard whilst to also secure the incorporation of emerging technologies in construction.

10. No development shall commence until details precise details, specifications and, where necessary, drawings of the renewable energy technologies and rain/grey water harvesting and recycling to be incorporated into the development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved technologies shall be incorporated in accordance with the approved details prior to first occupation of the dwelling and thereafter maintained throughout the life of the development, including securing their replacement with equivalent technologies where those existing have reached the end of their useful lifespan.

Reason: To secure a dwelling which provides more energy than it requires, averaged over an annual period, and to secure a dwelling achieving Level 6 of the Code for Sustainable Homes.

11. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until plans/drawings indicating the positions, design, materials and type of boundary treatments to be erected have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be erected/completed in accordance with the approved details before the development is first occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

12. No development shall commence until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping, including the compensatory area of tree planting shown on the approved plans (of a similar native mix to that already existing in the woodland and at a ratio of no less than 2:1 for each tree removed), shall be carried out no later than the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

13. No development shall commence until details of the scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. Such details shall include calculations for surface water gained from the development such that proposed storage and pond capacities

are appropriate, as well as measures to ensure appropriate outfall rates from the pond (and storage tank in the event of capacity being reached). Plans and cross-sections of the pond, and the routing for flows beyond this pond, shall also be provided. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

14. No external lighting shall be erected or installed unless prior to its erection/installation precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve the amenities of the area and prevent dark sky glow.

15. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the dwelling unless prior to their incorporation in the building details of the type, number, position and finish of such features have been submitted to and approved in writing by the Local Planning Authority. Any such features shall be incorporated in accordance with the approved details and thereafter maintained as such.

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

16. The dwelling hereby permitted shall not be first occupied until a verification report prepared by a suitably qualified person demonstrating the proposal has achieved Level 6 of the Code for Sustainable Homes and Passivhaus standards has been submitted to and approved in writing by the Local Planning Authority

Reason: In order to monitor the actual performance of the dwelling against that envisaged through the design stage.

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

Reason: In the interests of highway safety.

Informatives:

Public Footpath 27 must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations, and promptly determining the application. As such it is considered that the Local Planning Authority has implemented

the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

Item 1.7

Reg. No. 9/2014/0721/NO

Applicant:
Mr Alan Shepherd
Bespoke Property Limited
2 Milton Grange
Main Street
Milton
DE65 6EF

Agent:
Mr Michael Congreve
Bi Design Architecture Ltd
79 High Street
Repton
Derbyshire
DE65 6GF

Proposal: THE DEMOLITION OF AN EXISTING EXTENSION AND DETACHED STORE ALONG WITH THE REMOVAL OF A TREE, THE CONSTRUCTION OF NEW EXTENSIONS AND DETACHED STORE AND ERECTION OF CANOPIES OVER EXTERNAL SEATING AREAS, ALONG WITH THE CREATION OF ADDITIONAL BED & BREAKFAST ACCOMMODATION AT 12 BOOT INN BOOT HILL REPTON DERBY

Ward: REPTON

Valid Date: 21/08/2014

Reason for committee determination

These items are presented to committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

Site Description

The site comprises a public house, the Boot Inn, located on Boot Hill close to the junction with Brook End and within Repton Conservation Area. The public house is two-storey to the principle elevation reducing to single storey at the rear and in terms of a small side extension, and is constructed from traditional materials although the brickwork is painted cream to the front.

The car park is accessed via a relatively narrow access to the north of the public house, and is surrounded by a 2 metre high wall with residential properties beyond. An outbuilding adjoins the rear wall and is used for storage. Due to changes in levels, the existing beer garden sits around 1 metre higher than the car park and is generally more representative of ground levels beyond the confines of the site. There are some trees surrounding the beer garden.

The existing public house includes bed and breakfast accommodation which is known to have existed for many years.

Proposal

This report covers three applications made, all overlapping to some extent.

- 1) Under application ref: 9/2014/0721 it is intended to extend the ground floor to the front of the beer garden, replacing an existing extension, in order to include for restaurant seating, as well as to extend the bar area to provide a more spacious experience for visitors. A tree would be removed to facilitate these works. In addition the existing entrance is to be removed and an older (formerly blocked up) entrance reinstated. The outbuilding to the rear is to be demolished and replaced with a similar storage building whilst two additional bedrooms and a manager's flat would be provided above the bar and restaurant areas.
- 2) Application ref: 9/2014/0722 seeks consent for relevant demolition in a conservation area to cover the loss of the outbuilding and extensions.
- 3) Application ref: 9/2014/0801 seeks permission for the replacement outbuilding to be a building to serve as a micro-brewery instead of storage.

Applicants' supporting information

The Design and Access Statement notes the pub has provided food in its previous incarnations, but this exacerbated internal circulation problems as the seating areas restricted movement around the bar. The existing beer garden was also only accessed through several tight and dingy areas. The proposal is relocate the bar into a rear extension within the footprint of the building, creating a less cramped feel and easier flow of customers around the bar. A side extension will be utilised predominantly for those served food, separating those customers from those drinking. This will also form a more open link to the beer garden. Furthermore, two glazed free-standing canopies are proposed to either side of the beer garden in order to create external seating areas. The existing pub footprint is 239 square metres, along with 34 square metres in the form of the outbuilding. The proposal will increase the footprint by 29 and 10.5 square metres respectively. The outbuilding side walls shall be retained or rebuilt as required to buttress the existing boundary wall, with the new building free-standing, rather than bearing on to this boundary wall. Existing scale will be respected in the new extension/building proposed, as will the existing fall across the site. The proposed extensions are to match the existing building and the reinstatement of the original front entrance is considered a matter of importance to the design, with great care to be taken to ensure it closely matches the original look. The Boot is noted to be one of a few pubs within the village, but significantly smaller than some of the others. The proposal will increase the viability of the existing site, and allow the building to trade on its strengths.

A Bat Survey found no evidence of bats within the structure of the buildings, with limited potential for supporting roosting bats. Access into the buildings for bats was available via gaps in the roof edge and brick work and several missing/broken roof tiles. As such emergence surveys were undertaken. These confirm there was no evidence that bats were present.

Planning History

Responses to Consultations

The County Highway Authority raises no objection to the proposals.

Derbyshire Wildlife Trust note a daytime and evening emergence bat survey have been undertaken with no evidence of the presence of bats recorded internally or externally. The tree that is scheduled for removal is of insufficient size and does not have any suitable features to support bats. It is considered that adequate bat survey work has been undertaken in relation to the proposed planning application for it to be determined. They do however seek a condition to safeguard against nesting birds and that as part of the construction of the new works opportunities for roosting bats and nesting birds are built into the structure to enhance biodiversity.

The Contaminated Land Officer has no concerns since whilst the site is within influencing distance of potential contaminating features, the proposed work is not considered to alter pollutant linkage.

The Environmental Health Officer notes the proposed alterations will create two new external seating areas which are likely to be utilised for external smoking. External smoking areas can be the cause of complaint as they can act as a source of external noise from music and raised voices as well as lighting and passive smoke. However it is also noted that there is an existing beer garden and therefore whilst the proposals may increase the use of this area, it will not be an entirely new use. It is considered the shelters have the potential to slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life, with guidance recommending mitigation and reduction to a minimum of the adverse effects. In addition guidance advises local planning authorities should consider whether the potential for adverse noise impacts will be addressed through licensing controls. As a result conditions to prevent amplified music and control lighting are recommended.

The Council's Tree Officer notes a few trees are affected by the proposals. The tree to be removed is a small ash with little amenity value and too small for consideration of a Tree Preservation Order. A cherry would be retained which offers moderate amenity value – adding to the setting – and is in good condition; whilst trees to the rear of the outbuilding (in the adjoining garden) are fruit trees with low value due to limited remaining safe life expectancy. However there is a striking evergreen holly with moderate amenity value close to the existing brickwork and there is a need to consider the impact on this tree during the course of works.

Responses to Publicity

Objections have been received citing the following concerns:

(Five objections) 9/2014/0721 and 0722:

- a) the addition of more outside seating will create more noise and light pollution issues for neighbouring residents;
- b) the new entrance position means patrons leaving would create excessive noise – an issue under previous management before the door was closed off;

- c) a noise impact statement needs to be carried out;
- d) loss of privacy for neighbouring residents;
- e) anti-social behaviour impacts;
- f) lack of parking is already a major issue;
- g) with 9 bedrooms and only 9 spaces where staff and other customers park given there is no street parking outside;
- h) resulting congestion on local roads from parking elsewhere;
- i) access from the car park onto the highway is represents a danger to the public; and
- j) further development of this business will encroach on the local community.

(Five objections) 9/2014/0801:

- a) what benefit is the development to the village and its residents;
- b) brewing is an industrial process producing fumes, steam and requires disposal of trade effluent and storage and collection of waste, potentially affecting sewage and surface water drainage capacity;
- c) the outbuilding is larger and taller than the current building;
- d) proximity to other dwellings including habitable windows on a neighbouring house;
- e) a micro-brewery will create noise with the constant noise of machinery, barrel rolling and refrigeration; as well as smells – all early in the mornings and late evening, in what is a residential area;
- f) what will be done with the “spent grains” and waste;
- g) inevitable impact on traffic from deliveries, etc;
- h) road safety is already an issue with many parking in restricted parking areas, speeding, and parking on pavements, and further building and employment on site will exacerbate these problems;
- i) the renovation should be sympathetic to its origins;
- j) deeds for the local houses specifically exclude manufacturing and this should extend to this house, albeit a public house; and
- k) ongoing concerns regarding the licensing hours.

A single representation of support has been received under the latter application, agreeing with the Design & Access Statement and supporting the new micro-brewery proposals as this will help secure this pub's future and contribute to the local economy. It is considered the design of the planned development is sympathetic to the pub's appearance preserving the village's character.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Employment Policy 5 (E5), Recreation and Tourism Policy 1 (RT1), Environment Policies 11 and 12 (EV11 and EV12), and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

- Local Plan Part 1 (as modified at Submission): policies SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

National Guidance

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

Local Guidance and Evidence

- Housing Design and Layout SPG.

Other Material Considerations

- Repton Conservation Area Character Statement (CACS) 2013.
- Repton Village Society's Village Design Statement (VDS).

Planning Considerations

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

- The principle of development;
- The impact on the Conservation Area
- The impact of the additional public house facilities;
- The impact of the additional bed and breakfast facilities; and
- The impact of the micro-brewery.

Planning Assessment

The principle of development

The Local Plan lends support to the expansion of existing businesses and tourist facilities within sustainable locations. Repton is considered a sustainable settlement. The NPPF lends great weight to the proposal given it would provide local economic benefits. With the ecological impacts also acceptable and there being no objection to the demolition of existing extensions and the outbuilding, the principle of development is not at issue here. Instead it is whether the intensification of the existing elements of the business and the introduction of a micro-brewery individually or collectively cause unacceptable harm in respect of amenity, highway safety or other matters.

The impact on the Conservation Area

The building and extension to be removed are of some significance by way of their age and association with the property. However they provide a minimal contribution to the Conservation Area such that their loss is considered to bring about less than substantial harm. The replacements and canopies are considered to provide an enhancement to the area with the buildings consolidating the built form and enclosure of the site, with suitable detailing and materials given on plan at this stage. It is felt the loss of the tree can be sustained in the wider realm.

The impact of the additional public house facilities

The public house is presently able to provide meals without the need for any planning permission. This could be by way of indoor seating or by picnic tables and parasols on the beer garden (which would not require permission). The extension to facilitate further seating, either inside or outside, is not considered to materially alter the circumstances here since these areas could already be used in such a fashion. The same view is reached when considering noise pollution issues, with the public house having long existed adjacent to existing dwellings in this village core location where other businesses and activities occur. The Highway Authority raises no objection and given the public house could be used in a much more intensive fashion in any case and on street parking is either prohibited or limited, this is understandable.

The impact of the additional bed and breakfast facilities

The number of rooms would increase from 7 to 9. A manager's flat would also be provided subject to internal roof space being sufficient. The impacts associated with this element of the use are generally confined to whether there is sufficient parking for customer vehicles. The need for 2 or 3 more spaces is noted, but this assumes a 100% occupancy rate and should there not be any available space customers would have to find a safe and legal alternative elsewhere. Whilst possibly adding to congestion issues, this is not considered to lead to a severe impact to warrant a refusal given that the premises is already a public house with letting rooms.

The impact of the micro-brewery

The objectors' concerns over associated noise with this element of the use are appreciated. However a micro-brewery is a far "lighter" manufacturing process than conventional brewing. The brewing and associated refrigeration and storage would be wholly contained within the building – one which would be constructed to modern standards and offer a reasonable degree of noise attenuation. Additional vehicle movements associated with this element of the business are likely to be absorbed within the existing impacts of commercial vehicles to the property and/or traffic around the village. Again there is not considered to be a severe impact arising which leads to a refusal.

All the above elements, as well as biodiversity enhancements, can be made subject to conditions to ensure an acceptable form of development arises – one which is not considered to compromise existing conditions for neighbouring residents or highway safety. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 1146H/06C, 1146H/08A, 1146H/09A, 1146H/10C, 1146H/13, 1146H/15, K8-260508-004B, K8-260508-005B, K8-260508-006B, K8-260508-007B, K8-260508-008B and K8-260508-009B, as well as Window Specification Quotation Ref: 1766; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.

3. The manager's flat hereby permitted shall be occupied solely by employees based at The Boot Inn, Boot Hill, Repton and shall not be severed or let from the public house as a separate and unconnected dwelling.

Reason: In order to protect the amenities of occupiers therein and to ensure adequate parking provision is available.

4. There shall be no amplified sources of music provided to any of the new external seating areas.

Reason: In the interests of protecting the amenities of neighbouring residents.

5. No external lighting shall be erected or installed unless prior to its erection/installation precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve amenity of adjoining occupiers.

6. All new plumbing and service pipework, fume extraction flues, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building(s) unless otherwise shown on the approved plans or, prior to their installation, details are submitted to and approved in writing by the Local Planning Authority. Where details are approved, the works shall proceed in accordance with these details.

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

7. Extensions, alterations and the new outbuilding shall be constructed using a Terca Cassandra Red Multi brick and Staffordshire Blue clay tiles, unless prior to works commencing on the respective part alternative details, specifications and, where necessary, samples of the facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

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

8. External joinery shall be in timber and painted to a colour which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

9. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

10. Prior to the commencement of construction of the outbuilding, a method statement to ensure that adjacent trees are not compromised shall be submitted to and approved in writing by the Local Planning Authority. There after the method statement shall be adhered to with any protective measures retained in position until all building works have been completed.

Reason: To protect the trees from undue disturbance

11. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason: In the interests of protected species.

12. Prior to the commencement of construction of the outbuilding, an enhancement strategy for birds and bats shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented in full and maintained thereafter.

Reason: In order to provide a net enhancement in biodiversity, in line with paragraph 118 of the NPPF.

Informatives:

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

Item 1.8

Reg. No. 9/2014/0722/CC

Applicant:
Mr Alan Shepherd
Bespoke Property Limited
2 Milton Grange
Main Street
Milton
DE65 6EF

Agent:
Mr Michael Congreve
Bi Design Architecture Ltd
79 High Street
Repton
Derbyshire
DE65 6GF

Proposal: **THE DEMOLITION OF AN EXISTING EXTENSION AND
DETACHED STORE AT 12 BOOT INN BOOT HILL
REPTON DERBY**

Ward: **REPTON**

Valid Date: **21/08/2014**

Please refer to the combined report under application ref: 9/2014/0721.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing 1146H/13; unless as otherwise required by condition attached to this permission.
Reason: For the avoidance of doubt.
3. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.
Reason: In the interests of protected species.

Informatives:

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

Item 1.9

Reg. No. 9/2014/0801/NO

Applicant:
Mr Alan Shepherd
Bespoke Property Limited
2 Milton Grange
Main Street
Milton
DE65 6EF

Agent:
Mr Michael Congreve
Bi Design Architecture Ltd
79 High Street
Repton
DE65 6GF

Proposal: **THE CONSTRUCTION OF NEW MICROBREWERY AT**
BOOT INN 12 BOOT HILL REPTON DERBY

Ward: **REPTON**

Valid Date: **28/08/2014**

Please refer to the combined report under application ref: 9/2014/0721.

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plans/drawings 1146H/11A, 1146H/12A, K8-260508-004B, K8-260508-005B, K8-260508-006B, K8-260508-007B, K8-260508-008B and K8-260508-009B; unless as otherwise required by condition attached to this permission.

Reason: For the avoidance of doubt.
3. The microbrewery shall only be used by the operator of the adjoining public house and shall not be sold off separately from the public house, or let or sub-let to another operator/business.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenities of the area.
4. No external lighting shall be erected or installed unless prior to its erection/installation precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by

the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To preserve amenity of adjoining occupiers.

5. Prior to the first use of the micro-brewery hereby permitted, a scheme for the control of odour and noise emissions from the process, along with details of the appearance and colour of the flues, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: In the interests of protecting the amenities of adjoining occupiers.

6. The new building shall be constructed using a Terca Kassandra Red Multi brick and Staffordshire Blue clay tiles, unless prior to works commencing alternative details, specifications and, where necessary, samples of the facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

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

7. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

8. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

9. Prior to the commencement of construction of the building, a method statement to ensure that adjacent trees are not compromised shall be submitted to and approved in writing by the Local Planning Authority. There after the method statement shall be adhered to with any protective measures retained in position until all building works have been completed.

Reason: To protect the trees from undue disturbance

10. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.

Reason: In the interests of protected species.

11. Prior to the commencement of construction of the building, an enhancement strategy for birds and bats shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures shall be implemented in full and maintained thereafter.

Reason: In order to provide a net enhancement in biodiversity, in line with paragraph 118 of the NPPF.

Informatives:

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

Item 1.10

Reg. No. 9/2014/0852/BSM

Applicant:
Mr Bob Ledger
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Andy Dowding
Franklin Ellis Architects
The Old Pumphouse
5 The Ropewalk
Nottingham
NG1 5DU

Proposal: THE VARIATION OF CONDITION 10 OF PLANNING PERMISSION 9/2013/0953 TO ALTER APPROACH FOR ACCESSING THE SITE DURING CONSTRUCTION ON LAND AT SK2915 0910 LULLINGTON ROAD OVERSEAL SWADLINCOTE

Ward: SEALES

Valid Date: 09/09/2014

Reason for committee determination

The application is brought to committee as the District Council is both the applicant and the developer.

Site Description

The application site comprises an agricultural field measuring some 6.14 square metres which is located on Lullington Road, to the west of Overseal. The site is within the River Mease SAC.

Proposal

This is a Section 73 application for the variation of condition 10 of planning permission 9/2013/0953 which is for the erection of twelve affordable dwellings together with associated parking and access, as part of the Council's New Build Programme that was agreed at the Housing and Communities Services Committee on 18th April 2013. Condition 10 relates to the provision of the new vehicular accesses to serve each dwelling before works commence on the individual dwellings.

Applicants' supporting information

The S73 application is considered necessary as it would be impracticable to form all the vehicular accesses before works for each dwelling is commenced as services will need

to be laid into the ground at a later date requiring the surface to be re-excavated. Works on each dwelling would be carried out concurrently and hence there is the possibility of damage to the surface owing to construction vehicles etc.

Planning History

9/2013/0953 – The erection of twelve one, two, three and four bedroom houses with associated parking, gardens and access – approved 22/01/2014

Responses to Consultations

The County Highway Authority (CHA) has no objections to the re-wording of the condition subject to the inclusion of the previous highway conditions as stated on 9/2013/0953.

Responses to Publicity

A site notice has been displayed at the site with an expiry date of 8th October 2014. To date, no representations have been received from neighbouring residents or interested parties.

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Transport Policy 6

Emerging Local Plan: Policy INF2

National Guidance

National Planning Policy Framework, paragraphs 7, 8, 9, 14, 17, 32

National Planning Practice Guidance

Planning Considerations

The main issue central to the determination of this application is the impact of the proposal on highway safety.

Planning Assessment

The application seeks to vary condition 10 of the planning approval granted by Members earlier this year. The condition states:

'Before any building works on any individual dwelling commence the new vehicular access to serve each dwelling shall be created to Lullington Road in accordance with the application drawings, laid out, constructed and provided with visibility splays in either direction, from a distance of 2.4m back from the carriageway edge extending the full length of the site frontage, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level'.

It is suggested that the condition is re-worded as follows:

'Before building works commence on any dwelling, temporary access into and egress from the site, as per FEA drawing 2341-001-A-Site Plan Construction Traffic shall be formed. No individual dwelling subject of the application shall be first occupied until the new vehicular access to serve each dwelling has been created to Lullington Road in accordance with the application drawings'.

The submitted drawing shows a single site entrance would be located at the western end of the site with a single egress point at the eastern end. All construction traffic would be contained within the site during the construction period.

The condition was originally imposed at the request of the CHA which has not raised any objections to the variation of the condition and therefore there is no reason why the condition should not be varied as suggested. The proposal is considered to be in accord with Saved Local Plan Policy T6.

As previously stated, the site lies within the River Mease SAC where developer contributions towards water quality management are required. Using the guide within the River Mease DCS a financial contribution of £2,300 is required as identified previously.

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. Grant delegated authority to the Planning Services Manager to deal with any representations received during the remainder of the publicity period.
- B. Subject to no material insurmountable planning objections arising, **GRANT** permission under Regulation 3 subject to the following conditions:
 1. The development permitted shall be begun before the expiration of three years from the date of the original permission, namely 22nd January 2014.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
 2. This permission relates to the plans originally validated by the Local Planning Authority on 20th November 2013 and the subsequent plans validated by the Local Planning Authority on 9th September 2014 and any variation to the approved drawings may need the approval of the Local Planning Authority.
Reason: For the avoidance of doubt as to what is approved.
 3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the character and appearance of the surrounding area.

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

Reason: To protect the amenities of adjoining properties and the locality generally.

5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of all hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the completed development and the appearance of the area.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. Before any other operations are commenced (other than demolition/site clearance) space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

9. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

10. Before building works commence on any of the dwellings, temporary access into and egress from the site, as per FEA drawing 2341-L001 Revision A (Site Plan Construction Traffic Access Points), shall be formed. No individual dwelling subject of the application shall be first occupied until the new vehicular access to serve each dwelling has been created to Lullington Road in accordance with the application drawings.
Reason: In the interests of highway safety.
11. No dwelling shall be occupied until space has been provided within its curtilage in accordance with the original application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
Reason: In the interests of highway safety.
12. No gates or other barriers shall be erected within 5m of the nearside highway boundary and any gates elsewhere shall open inwards only.
Reason: In the interests of highway safety.
13. Prior to the occupation of more than 50% of the dwellings the proposed footway fronting the site shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to commencement of development works on the site.
Reason: In the interests of highway safety.
14. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: The intention to dispose of surface water to the mains sewer is not acceptable in this location and an alternative method of surface water drainage is therefore required.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall be extended or altered externally, have its roof altered or enlarged, be provided with a porch, incidental building, structure or enclosure, additional hard surface, new vehicular access or be painted externally.
Reason: In view of the form and nature of the development, in the interests of visual amenity and to protect the amenity of neighbouring residents.
16. All windows serving the bathrooms and toilets in the dwellings hereby approved shall be permanently glazed with obscure glass.
Reason: In the interests of preserving privacy and amenity.

Informatives:

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

action against the householder.

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.

With regard to condition 13 and pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant/developer 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/developer'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.

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.

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. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm. 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. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm. The applicant's attention is drawn to the Standing Advice of Natural England with regard to protected species. Please contact Andy Stubbs on 0300 060 2875 for further advice.

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.

This project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

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

Item 2.1

Reg. No. 9/2014/0700/FM

Applicant:
Mr & Mrs J Kiely
Rosedene
Chapel Street
Smisby
Ashby De La Zouch
LE65 2TJ

Agent:
Mr David Granger
David Granger Design Ltd
The Old Dairy
Mill Street
Packington
Ashby De La Zouch
LE65 1WN

Proposal: **RESUBMISSION OF PREVIOUS APPLICATION**
9/2014/0425 FOR THE ERECTION OF REPLACEMENT
DWELLING AND ASSOCIATED LANDSCAPE WORKS
AT ROSEDENE CHAPEL STREET SMISBY ASHBY DE
LA ZOUC

Ward: **REPTON**

Valid Date: **21/07/2014**

Reason for committee determination

This item is presented to committee at the request of Councillor Smith as he considers that the committee should consider the usual site circumstances and debate the issues which are very finely balanced.

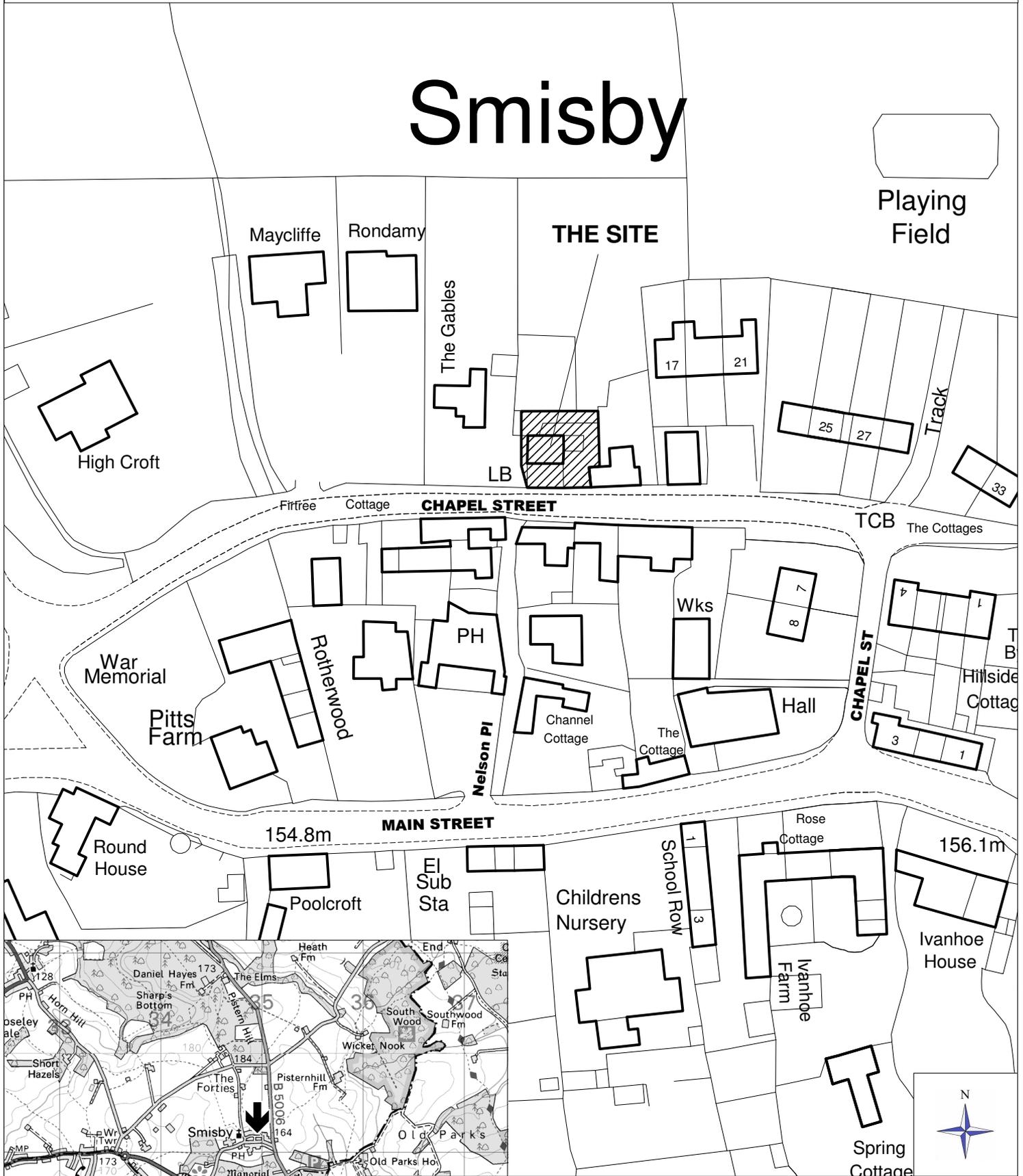
Site Description

Rosedene is an existing cottage on the northern side of Chapel Street, Smisby, falling within the Conservation Area. There is a mix of properties along Chapel Street of varying ages and designs, with a mix of traditional materials and render. The dwelling is of traditional cottage-type form with two-storeys, a central chimney stack and extensions to the rear and side. It is rendered except for corbelling and the chimney stack, and a modern concrete interlocking tile has been used to replace traditional tiles at some point in the past.

The property is set above the highway by approximately 1 metre with the front garden framed by a retaining wall and hedgerow over. This wall has in the past served for pedestrian access although these openings have now been blocked up. The vehicular access lies to the eastern side of the site providing access to an area of hardstanding within the side and rear garden. The rear boundary is predominantly hedgerow and a monkey puzzle tree sits in the front garden.

9/2014/0700 - Rosedene, Chapel Street, Smisby, Ashby de la Zouch
LE65 2TJ

Smisby



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461. 2014

Proposal

It is proposed to demolish the existing dwelling and erect a new dwelling in its place. A garage would be provided to the side with the existing access retained. The former pedestrian access would be re-opened. The front wall would be added to by way of railings on top and extending it alongside the vehicular access. The dwelling itself would be two-storey but reducing to 1.5 storey design to the rear elevation, with single storey elements to the eastern end.

Applicants' supporting information

A Design and Access Statement considers the proposals will have limited to no impact on local residents as they are for a replacement dwelling, very similar in design to the existing. It is considered the proposal is only likely to have a small but nonetheless positive impact on the local economy, through the employment of local trades and the use of local suppliers. It is noted that original proposals (subject of pre-application advice) to modernise and renovate the building have been amended to create a replacement dwelling, due to the poor structural condition of the house. The layout of the site will remain largely unchanged along with the mass and scale with only minor modifications and single storey extensions to replace the existing timber structures. Landscaping to the site is to be retained where possible whilst sympathetic surfacing materials will be used to complement the high quality materials used on the external elevations of the proposal. It is also considered the proposals should cause no undue highway concerns as they seek to utilise the existing vehicular and pedestrian accesses and the road has good visibility, whilst sufficient vehicular parking is provided for the size of property.

A Heritage Statement has been prepared to explain how the proposals have taken account of the relevant planning policies proportionate to the architectural and historical importance of the building and its contribution to the Smisby Conservation Area. It outlines the building is constructed of brick with a rough-cast render finish and a pitched roof, now covered by concrete tiles, along with [some] modern uPVC windows. The oldest part of the property comprises of a two-storey range that runs parallel with the street with a later, two-storey extension across the rear elevation. An undated photograph is provided showing the property prior to its render finish, with prominent white windows and a front door to the left hand side of the front elevation. Since then the property has suffered numerous and unsympathetic alterations to the exterior of the building with the render finish and replacement windows and roof tiles. It is considered that as a result of these alterations, the historic character and appearance of the property, particularly the front elevation to Chapel Street, has been seriously degraded to the extent that it has no distinctive or special architectural or historic interest and its contribution to the Conservation Area is now somewhat limited. Notwithstanding these alterations, it is noted the front range of the property has retained much of its historic internal floor plan, with two rooms on each floor either side of a central stack, and with the former main entrance door on the rear elevation now within the rear extension. It is considered the design of the new dwelling seeks to reflect and better reveal the historic character of the Conservation Area.

A Structural Report notes the condition of the existing property is poor and would require substantial future investment to make it habitable. However given the extent of the works required it recommends that it would be more economical to remove the existing building and re-build using traditional materials and techniques, as well as

incorporating modern insulation standards which would bring the property up to a satisfactory, modern standard. Supporting figures are provided to demonstrate the costs of renovation versus the costs of a new-build, and these are discussed further below.

A Bat Scoping and Emergence Survey contain the findings of a protected species survey, primarily focused on bats. The building was first surveyed in April 2014 but to further inform the application a single emergence and activity survey was completed in July. During this survey no bats emerged from any of the buildings and bat activity around the site was recorded to be low. It is considered therefore that the building's status is assessed as being of low risk of harbouring bats. The survey extends to the garden pond in the rear of the property, which given its isolated position and limited size, also supports a goldfish population, it is considered unlikely that the pond would be used by great crested newts. However the pond does support common amphibians (i.e. frogs) hence some precautionary mitigation is proposed. No redundant bird nests were found but as the survey was carried out at the start of the nesting season it is possible that nest construction may have started after the survey and consequently there is potential for breeding birds to constrain the timing of the redevelopment. As such it is recommended that a precautionary approach is taken.

Planning History

9/2014/0425: The erection of a replacement dwelling and associated landscape works – Withdrawn

Responses to Consultations

Derbyshire Wildlife Trust is satisfied that the level of bat survey work is adequate in order for the Council to determine the application. They do however note the advice in the NPPF which seeks that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible. Accordingly they recommend that suitable features for roosting bats and nesting birds are incorporated into the new property, and ideally a new garden pond should be created to ensure that there is no loss of breeding habitat for common frog. In addition in order to safeguard nesting birds they advise an appropriate condition should be imposed.

Natural England advises that the proposal is unlikely to have a significant effect on the interest features for which the River Mease Special Area of Conservation (SAC) has been classified, and advises that, subject to condition and consideration of the Developer Contributions Scheme (DCS), the Council is not required to undertake an appropriate assessment to assess the implications of the proposal on the SAC. Further comments advise the Council to seek advice on the impact on protected species and to have regard to biodiversity and landscape enhancements as advocated by the NPPF.

The County Highway Authority notes the access is narrow, slopes steeply down to the highway and is severely substandard in terms of visibility. However as the proposed dwelling is a replacement it is not considered that a change in highway circumstances would result. Therefore there are no objections subject to a condition to secure the provision of parking space prior to occupation and its retention thereafter.

Responses to Publicity

Smisby Parish Council raises no objection.

A single neighbour representation raises concern that due to the unavailability of data for ground heights on plans, specifically areas abutting Rose Cottage, any changes could be to the detriment of Rose Cottage.

Development Plan Policies

The relevant policies are:

- Saved Local Plan: Housing Policy 5 (H5), Environment Policies 12 and 13 (EV12 and EV13) and Transport Policy 6 (T6).

The emerging policies are:

- Local Plan Part 1 (as modified at Submission): policies H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

National Guidance

- National Planning Policy Framework (NPPF) – particularly paragraphs 6, 7, 8, 11, 12, 14, 17, 32, 58, 61, 69, 109, 118, 120, 123, 129, 131, 132, 134, 186, 187, 203, 206, 215 and 216.
- National Planning Practice Guidance (NPPG).

Local Guidance

- Housing Design and Layout (2004) SPG
- Draft Smisby Conservation Area Character Statement (2013)

Planning Considerations

The earlier application was withdrawn following objection from the Wildlife Trust preventing its determination at that point in time. Further ecological survey work has now been completed allowing a decision to be made without conflict to the Council's requirements under the Habitat Regulations. The main issues central to the determination of this application are:

- The principle of demolition and effect on the Conservation Area;
- Whether the replacement dwelling would conserve or enhance the Conservation Area;
- Ecological considerations; and
- Amenity, access and other matters.

Planning Assessment

The principle of demolition and effect on the Conservation Area

As the existing dwelling falls within the village confines where saved and emerging housing policies support residential development in the manner proposed, from the outset there is no concern in principle. However as it falls within the Smisby Conservation Area where there is a presumption to preserve and enhance; a further layer of consideration applies before the principle of demolition can be accepted.

The Conservation Area Character Statement (CACS) singles out this dwelling as a building which contributes positively to the special architectural or historic character of the Area. It is noted that *“the small buildings that hug the north side of Chapel Street were located on old encroachments, built probably from the late 17th and early 18th century, on the very edge of the open field. None of the standing buildings appear to be of any great age although Rosedene... retains its central chimney stack and sawtooth brick eaves suggesting late 17th or early 18th century origins...”*. When considering the Area boundary which has been drawn, it is clear that this building has been consciously included in the first instance, and then its elevated degree of contribution to the Area further highlighted. Given the historical nature of the property it is mentioned in the CACS for good reason. Notwithstanding this, there are less complimentary elements of the building which are considered to contribute in a less positive manner – these being the single storey conservatory to the side and the double gable rear extension which is a later addition to the original cottage form of the property. The Conservation Officer supports this view in his response.

EV12 of the 1998 Local Plan states that *“the demolition of an unlisted building in a Conservation Area will not be permitted where this will have an adverse effect on the character or appearance of the area”*, with such buildings individually and collectively making a significant contribution to the character of such Areas and can be considered as being of local historic interest. The supporting text specifically states *“there will be a presumption against the demolition of such buildings”*. In testing the policy for consistency with the NPPF, the Framework states local planning authorities *“should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance”*. It goes further to state that *“great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be... [and]...as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification”*. EV12 is consistent with national policy and should be afforded significant weight.

EV13 is also relevant in that, given the building is singled out in the CACS, it is considered to be a building of architectural or historic importance – one which, as alluded to in the supporting text to the policy, was built in the 19th or early 20th centuries which do not meet the current listing criteria but which nevertheless are of local interest. As discussed above this dwelling is likely to be of even earlier origin. EV13 states *“the demolition of a... building of architectural or historic importance will not be permitted unless evidence has been provided that the building is incapable of beneficial use and cannot be sold on the open market [leading to its restoration]”*. This policy is also consistent with the NPPF in that where the proposal would lead to total loss of the significance of a designated heritage asset *“local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss”*. EV13 is also consistent with national policy and should also be afforded significant weight.

The key points to draw from the above policy background is that (1) great weight should be given to the conservation of Rosedene; (2) demolition should not be permitted where

an adverse effect on the Conservation Area would arise; and (3) should demolition be the preferred option this requires clear and convincing justification, including assessment of the economics of retention, whilst the public benefits arising should be substantial.

In drawing the significance of the asset up against the prevailing policy, it is considered there is a clear argument for refusal on the basis that an adverse impact would arise with the loss of an important historic building within the Conservation Area – one which positively contributes in clearly explaining the evolution of Chapel Street and this part of the Area, and one which is afforded great weight in favour of retention.

Notwithstanding this it is necessary to have regard to the “cost/benefit” approach, advocated by the three pillars of sustainable development set out in the NPPF. It is not denied that the dwelling is in poor condition. There is evidence of damp, woodworm in some parts of the building, mortar decay and movement in the roof structure in turn affecting the walls. The costs associated with rectifying these issues are put at £115,000. Whilst this may seem a considerable degree of investment it is interesting to note that the costs before VAT reclaim of a demolition and rebuild is more – at £119,600. In any case, given the starting point is for retention of the property, the difference would need to be excessive to begin to weigh heavily in this assessment.

The balance of renovation versus rebuild has been given further scrutiny by Building Control Surveyors who have inspected the building. They broadly agree with the extent of renovation works as outlined in the Structural Report noting that the roof in particular is problematic due to a lack of horizontal bracing leading to a spreading of the rafters and the wall plate. They also raise some concern that the recommended removal of the render may not only reveal unforeseen works but also compromise the stability of the walls further, since this process could draw out the lime mortar between the bricks. Whilst this elevates the risk of spiralling costs should significant issues be uncovered, Building Control Surveyors also comment that a competent builder can ensure the building is properly braced in a systematic fashion, enabling the works to proceed without risk of causing further issues (e.g. by not supporting the walls before removing the roof for instance). In addition many of the proposed works are repairs which are successfully carried out on similar buildings in poor condition and it is also not clear as to why the render needs to be removed. Whilst there is a conservation enhancement in this action, it would be better to forgo the restoration of the original brick facade over risking further damage to or compromising the heritage asset.

Importantly what is missing is an assessment of partial retention and demolition to allow the more modern additions to the building to be lost. The rear addition has compromised the integrity of the building to a degree, as has the replacement of the original roof tiles with heavier concrete alternatives. Flashing and rainwater goods are incomplete and poorly maintained. Ground levels are above internal floor slab level in places facilitating the transfer of damp into the property. These factors are less than complimentary to the original dwelling and its long term health, but are reversible. The two-storey element is also away from public aspects limiting the harm arising from its removal. This middle ground between total demolition and renovation is considered to achieve the conservation aims in retaining and restoring the very element of the dwelling which has led to it being singled out in the CACS – the historic importance of the original cottage erected on this site. It is unfortunate that without evidence it is not possible to reach a conclusion on the feasibility or viability of this option.

Although it is appreciated replacement would result in a property which is more thermally efficient, this is afforded limited weight given the applicants made a conscious choice to invest in the existing property quite recently – in turn accepting that such a lifestyle would attract higher utility costs. Indeed this purchase was made in the knowledge that a heritage property will likely bring higher maintenance and upkeep costs. The building has also been used for day to day habitation as a private residence until quite recently. The dwelling is therefore still considered capable of a beneficial residential use, albeit with internal works to repair recently revealed walls, floors and ceilings and decoration throughout.

To summarise the justification to completely demolish the dwelling is not considered to be clear and convincing. The economics of renovation versus rebuild do not substantially weigh in favour of the proposal, and other opportunities have not been explored and/or exhausted. Furthermore the public benefits arising need to be substantial in order to justify the total loss proposed. This is not felt to be case, with it considered there is actually a dis-benefit given the total loss of an important and irreplaceable historic feature within the Conservation Area which plays an important part in the story of its evolution. A replacement of the existing would not be justified, confusing the otherwise clear and genuine evolution of the Area.

Whether the replacement dwelling would conserve or enhance the Conservation Area

Regard is also had to the form, scale and position of the replacement dwelling as well as boundary treatments. The proposal intends to largely retain the footprint of the existing dwelling with the line of the principal elevation matching that of its predecessor. The single and two-storey “extension” elements to the side offer enhancement in reinforcing the built edge close to the highway. There was concern with original plans that it would offer a less than authentic form which attempted to replicate the original cottage with successive side extensions. If the principle of its replacement is acceptable, any replacement should be distinctly different in its design so to clearly read, from public aspects at least, as a contemporary addition to the Conservation Area. Amended plans now achieve this with the chimney stack located on the western gable with an open timber porch to the front door. Stone cills are also added to the windows whilst the garage/store “extension” has a continuous ridge line without stepping off the footprint. Subject to conditions to secure appropriate materials and detailing, there is no longer a concern in this respect with the proposal considered to offer an appropriate design for a contemporary replacement within the Conservation Area.

It is noted the boundary wall is to be retained although railings are now proposed on top. There is a general absence of railings on boundary walls within the Conservation Area with hedgerows predominantly acting as the “topping” to the walls, as mentioned in the CACS. However, in the context of ensuring the replacement dwelling reads as a contemporary addition, the introduction of low height railings on top of the wall along with retention or replacement hedgerow is not considered to be of significant harm to the appearances of the Conservation Area. Again conditions can secure an appropriate solution.

Ecological considerations

The principle of demolition can now be accepted from a protected species point of view. Additional survey work has been undertaken to establish the dwelling is not host to a bat roost such that its replacement, subject to appropriate control by way of conditions,

would not likely give rise to harm to a local population of the species – nor nesting birds and amphibians. Further consideration is given to the impact upon the River Mease SAC and whether the proposal commands a commuted sum. However as there is no net increase in the number of dwellings, there is considered to be a neutral impact on the SAC subject to appropriate drainage being secured through condition. A decision can be made without conflict under the Habitat Regulations.

Amenity, access and other matters

The proposal is not considered to give rise to privacy or overshadowing conflicts with the adopted distances within the SPG complied with. The concerns as to adjoining levels with Rose Cottage are noted but levels are provided on the plans submitted and it remains the responsibility of the developer to ensure construction does not undermine or damage adjacent property.

Vehicular access is noted to be substandard but the County Highway Authority's response recognises the effect on the existing highway safety situation would be a neutral one, and this view is supported. Pedestrian access is improved by re-introducing the segregated footpath to the front door whilst disabled access is still reasonably possible.

It is noted that consent for Relevant Demolition within the Conservation Area is also necessary before any permission, if granted, is implemented. This does not constrain the determination of this application and the applicant is aware of this separate requirement under the legislation.

Summary

The recommendation below turns on a single point – the principle of demolishing the existing dwelling given its location and significance within the Conservation Area. The above discussion highlights that it is a matter of judgement on whether there is clear and convincing justification for the total loss of this heritage asset and adverse impacts which would arise. It is the view that this justification is insufficient at this point in time, and it is this view which Members are encouraged to consider for themselves.

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

Recommendation

REFUSE permission for the following reason:

1. The existing dwelling lies within the Smisby Conservation Area where there is a presumption to conserve and enhance. The Conservation Area Character Statement (CACS) further singles out this dwelling as a building which contributes positively to the special architectural or historic character of the Area, and evidence points to the dwelling being first constructed in the late 17th and early 18th century such that it plays an important part in telling the evolution of Smisby. Although there are less complimentary elements of the building, a conscious decision was made to include this and limited other dwellings on the north side of Chapel Street in the Area; and with further value identified in the

CACS, great weight is afforded to the retention of this heritage asset. The justification to demolish the dwelling is not considered to be clear and convincing. The economics of renovation versus rebuild do not substantially weigh in favour of the proposal and other opportunities have not been explored and/or exhausted. Furthermore the public benefits arising are not considered to be substantial, failing to justify the total loss of the asset. The proposal is therefore contrary to saved Environment Policies 12 and 13 of the South Derbyshire Local Plan 1998 and paragraph 133 of the National Planning Policy Framework.

Informatives:

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

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2014/0216	Melbourne	Melbourne	Dismissed	Delegated

Appeal Decision

Site visit made on 12 August 2014

by Roger Catchpole Dip Hort BSc (Hons) PhD MCIEEM

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

Decision date: 15 September 2014

Appeal Ref: APP/F1040/A/14/2219795

Lambert House, Ashby Road, Melbourne, Derby, Derbyshire DE73 8ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alan Dunncliff against the decision of South Derbyshire District Council.
 - The application Ref 9/2014/0216, dated 4 March 2014, was refused by notice dated 12 May 2014.
 - The development proposed is the erection of one dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the Council has an emerging plan that is at an early stage of progression. As it is yet to be examined in public, its policies have not been tested I am therefore only able to give the plan, as well as any related evidence, limited weight in the balance of this appeal.
3. The Council has drawn to my attention two other appeal decisions elsewhere in the District (Ref APP/F1040/A/13/2202043 and APP/F1040/A/14/2214209). Whilst I have paid careful attention to these decisions, the circumstances are not similar in all respects and therefore this appeal has been considered on its individual merits and the evidence before me.
4. I note that a Tree preservation Order (TPO) for woodland on the site was made after the appeal was submitted. Although I have no evidence before me that the order has been confirmed, I have nonetheless considered the effect of the proposal on the woodland in relation to the character and appearance of the local area.
5. I have taken into account the Government's Planning Practice Guidance, which came into force on 6 March 2014, in reaching my decision. The relevant content of this guidance has been considered but, given the facts of this case, it does not alter my conclusions.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area with specific regard to the settings of the Melbourne Park Conservation Area and Melbourne Hall Park, a Grade I registered Park and Garden, both designated heritage assets.

Reasons

7. The special interest of the Melbourne Conservation Area (MCA) is centred on its bi-focal, historical core of Melbourne Hall and gardens and a market place dating from the 1830s. The hall and gardens are situated to the east of the site and were first laid out at the beginning of the 1700s. The garden, its features and surrounding parkland are particularly important as one of the few early 18th century survivals from this period. Another important feature of the MCA, located nearby, is Melbourne Pool. This is immediately adjacent to the gardens and situated to the south east of the appeal site. It was originally constructed to serve a mill but was extensively remodelled and landscaped in the mid 1800s. The combined landscape importance of the pool, garden and parkland is recognised in its Grade I listing. This historic interest must be taken into account as a material consideration when considering development proposals affecting the features themselves or their setting. Paragraph 132 of the National Planning Policy Framework 2012 (the Framework) also anticipates that great weight will be given to an asset's conservation, which includes its setting.
8. The site itself is situated in the south-eastern corner of a disused quarry and is covered with dense, secondary woodland. A substantial detached property, with extensive, landscaped grounds, occupies the rest of the quarry. The site is located on the southern edge of the village and has modern residential development immediately to the north, as well as houses of predominantly recent origin to the east, forming a short ribbon along one side of the Ashby Road. The ground falls away from the quarry to the south, giving it a prominent and commanding position in the landscape which is considerably softened by the landscaping and surrounding woodland which provides visually continuity with the wider, bocage landscape.
9. I observe from my site visit that although the existing property is visible when viewed from the south, it does not create an overly dominant impression owing to the mature boundary trees and the degree of set back from the southern boundary of the quarry, which is also embanked. However, the addition of another property on the site, in much closer proximity to this boundary, would have a detrimental, cumulative impact to the open countryside resulting from an increase in the extent of the built form. This is because, despite its reduced vertical massing, the significant gaps in the woodland edge that I observed are such that the dwelling would be clearly visible, particularly during the winter months. The combined impact would be highly incongruous given the strongly Arcadian character of the landscape immediately to the south of Melbourne which provides the setting for both the MCA and the registered park. Consequently, I find that the proposal would detract from the heritage significance of both these assets.
10. The appellant concedes that the proposal would be visible but argues that only limited views from the public realm would be possible from the nearby footpaths and that 'glimpses' of the proposed dwelling would add to the experience of footpath users. I am not persuaded by this argument, however, because of the intrusion of the proposal into the strong, open countryside setting. Nor am I persuaded that views from the public realm would be limited given the density and frequency of footpath usage to the south. High usage was indicated during my site visit by bear earth along the line of the footpath that runs parallel to the southern boundary as well as the clearly worn

vegetation of the other nearby footpath. Moreover, I observed that there are, albeit limited, views of the site from the Ashby Road and that the proposed dwelling is likely to be visible, especially during winter months when the hedgerows have been flailed and no leaves are present.

11. Whilst I accept that the hedgerow and mature trees on the southern and eastern boundaries would provide some screening, this cannot be relied upon to make the development acceptable as they are impermanent features that could be removed by future occupants to improve the view or they could die from a range of natural causes, irrespective of the outcome of any construction activity. Whilst I do not doubt the intent of the appellant to retain such features and continue his positive association with the site, this cannot be relied upon because a different owner may well take a different view.
12. Whilst the harm to the significance of the setting of the MCA and the Grade I registered park is less than substantial, I have no evidence before me to suggest that any public benefit would outweigh that harm. I therefore conclude that the development would fail to preserve the character and appearance of the local area contrary to Environment Policy 1 and Housing Policies 5 and 8 of the South Derbyshire Local Plan 1998 that seek, among other things, to ensure that development outside the settlement boundary of Melbourne is only permitted if historic features are protected and/or when specific exceptions apply. I also conclude that the proposal would fail to preserve the setting of the registered park contrary to paragraph 131 and 132 of the Framework that require account to be taken of the desirability of sustaining and enhancing the significance of heritage assets and, indeed, the continued conservation of the features themselves as well as their setting.

Other Matters

13. The Council acknowledges that it is unable to demonstrate a 5 year supply of deliverable housing sites. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development and that, where the Council cannot demonstrate a five-year supply, relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework indicates that where relevant policies are out-of-date, the presumption in favour of sustainable development means that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. I accept that the proposal would make a small contribution towards the supply of housing locally; have a capacity to generate renewable energy; and be located in a sustainable location, with ready access to local services and facilities. However, paragraph 8 of the Framework indicates that sustainable development can only be achieved where economic, social and environmental aims are sought jointly and simultaneously. Furthermore, paragraph 9 goes on to indicate that sustainable development involves seeking positive improvements not only in the quality of people's lives but also the quality of the built, natural and historic environments. In these respects I have found that the proposal would cause significant harm to the character and appearance of the local area and the setting of a nearby, historic environment.

15. In my judgement, having had regard to the policies of the Framework as a whole, the adverse impacts of the proposal would not amount to a sustainable form of development and paragraph 14 of the Framework does not, therefore, apply. In any event, even if Paragraph 14 was deemed to apply the adverse impacts of granting permission would significantly and demonstrably outweigh the above benefits.
16. The appellant has argued that the LP lacks consistency with the Framework. However, I can find no such inconsistency in relation to the main issues that are before me and I therefore see no reason why the proposals should not be fully determined against the existing development plan as required by planning law.

Conclusion

17. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Roger Catchpole

INSPECTOR