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Our Ref: DS  
Your Ref:

Date: 12 March 2018

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 20 March 2018 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Coe, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Member**

Councillor Tipping

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any Substitutes appointed for the Meeting..
- 2** To receive the Open Minutes of the following Meetings:-  
  
Planning Committee 16th January 2018 Open Minutes **4 - 8**  
  
Planning Committee 6th February 2018 Open Minutes **9 - 13**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **14 - 57**
- 6** PROPOSED TREE PRESERVATION ORDER 478 – LAND OFF SWAN HILL, MICKLEOVER **58 - 61**

### **Exclusion of the Public and Press:**

- 7** The Chairman may therefore move:-  
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 8** To receive the Exempt Minutes of the following Meeting:-

- 9** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

PLANNING COMMITTEE

16<sup>th</sup> January 2018

**PRESENT:-**

**Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Mrs Coe, Coe (substituting for Councillor Watson), Mrs Hall, Harrison, Muller, Murray (substituting for Councillor Ford), Stanton

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**In attendance**

Councillor Mrs Plenderleith (Conservative Group)

PL/120 **APOLOGIES**

Apologies for absence were received from Councillor Ford and Councillor Watson (Conservative Group)

PL/121 **DECLARATIONS OF INTEREST**

Councillor Harrison declared a personal interest in Items 5 and 6 of the Agenda, by virtue of being an acquaintance of the applicant through Melbourne Parish Council.

Councillor Stanton declared a personal interest in Items 5 and 6 of the Agenda, by virtue of knowing the applicant.

Councillor Murray declared a personal interest in Item 1.3, by virtue of being a County Councillor.

PL/122 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/123 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/124 **PROPOSED TEMPORARY (5 YEAR PERIOD) CHANGE OF USE OF COMPOSTING SITE FOR USE FOR LORRY PARKING AND FOR THE STATIONING OF A PORTACABIN OFFICE AT LAND AT SK2032 9545 UNNAMED ROAD FROM COTE BOTTOM LANE TO BENT LANE HEATHTOP DERBY**

It was reported that members of the Committee had visited the site earlier in the day. The Planning Services Manager presented the report and updated the Committee on correspondence received from the Applicant's Agent requesting to extend the recommended operating hours to 04:00 – 22:00. The Planning Services Manager further advised the Committee that the application for temporary planning permission had been made for five years, and explained that the Officer's report recommended this be reduced to two years. The Planning Services Manager clarified the site's 'sui-generis' use advising that the last permitted use for the land had been as an airfield. The Officer advised that planned development in the vicinity had resulted in improvements to the junction of Woodyard Lane and the A50 and that no objections had been received from the Highways Authority.

Mrs Sarah Wilson (objector) attended the Meeting and addressed Members on this application.

Councillor Mrs Plenderleith attended the Meeting as Ward Member for Hilton and addressed the Committee thanking them for visiting the site and highlighted concern from the local residents relating to the applicant's proposed use of the narrow, rural roads and questioned why the site was not included in the Local Plan and did not face Dove Valley as with all the other industrial parks in the vicinity. The Councillor requested tighter conditions on the operating hours, landscaping in order to provide sound attenuation, inclusion of a travel plan and the location of the portacabin to be moved from the front of the site so it is hidden. The Planning Services Manager responded to all points raised adding that due the recommendation for temporary permission, landscaping would not be requested at this stage.

Members sought clarification on visual and ecological impact, and raised concern regarding operating hours and the use of lighting and also discussed that alternative access to Dove Valley Park be sought during the two-year period.

**RESOLVED:-**

***That consent be granted as recommended in the report of the Strategic Director (Service Delivery) subject to the conditions in the report including the additional/ amended conditions that: operations from site only between 06:00 and 18:00 Mon-Sat; floodlights only allowed on between 5.30am and 6.30pm Mon-Sat; revised layout to allow relocation***

***of portacabin. Additional informatives to suggest preferred vehicle route and alternative access to Dove Valley Park.***

Councillor Plenderleith left the Meeting at 6.45pm.

PL/125 **THE ERECTION OF 15 AFFORDABLE DWELLINGS INCLUDING ASSOCIATED ACCESS AND PARKING REQUIREMENTS ON FORMER DILKES GARAGE SITE HILL STREET SWADLINCOTE**

The Planning Services Manager presented the report informing Committee that the application is of history of the application.

Councillor Tilley addressed the Committee as local Ward Member commenting that concerns relating to the site being a former petrol filling station and possible contamination, the potential impact of construction traffic and access had been adequately addressed and welcomed the development plans.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery).***

PL/126 **DEMOLITION OF PART OF EXISTING CHILDRENS HOME AND ERECTION OF NEW EXTENSION ALONG WITH INTERNAL RECONFIGURATIONS AND RETENTION OF EXISTING OUTBUILDING ON THE CORNER OF THE SITE (COUNTY REF: CD9/0317/107 - AMENDED SCHEME) AT LINDEN HOUSE CHURCH STREET SWADLINCOTE**

The Planning Services Manager presented the report advising that this was a consultation from the County Council as the County Planning Authority seeking the views of the District Council on the proposal to demolish the Linden House Family Centre. The proposed amendments were explained by the Officer.

Members queried the materials to be used for the new extension which were clarified by the Planning Services Manager. In relation to the existing outbuilding, suggestions were made to investigate the removal of the paint and restore the building with an exposed brick frontage, however upon further discussion and comments made by the local Ward Member, it was requested that the original, iconic building be kept as painted brickwork.

***RESOLVED:-***

***That Derbyshire County Planning Authority is advised that South Derbyshire District Council does does not object to the granting of planning permission by subject to the amendments/provisions highlighted in the report of the Strategic Director (Service Delivery).***

Abstention: Councillor Murray

PL/127 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2017/0388      Weston Hall Drive, Weston on Trent

PL/128      **PROPOSED TREE PRESERVATION ORDER 472 – LAND TO REAR OF 45-59 MANCHESTER LANE, HARTSHORNE**

The Planning Services Manager presented the report to Committee informing Members that the request for the Tree Preservation Order (TPO) had been made by the landowner. Members were informed that the Council's Tree Officer had considered the request and confirmed that technically they could qualify as trees. The Planning Services Manager advised the Committee that many residents disagreed and queried the definition, their comments were put to the Tree Officer. The Tree Officer responded alluding to debates that had taken place at court hearings and quoted from Charles Mynors Law of Trees Forests and Hedges.

Some Members commented that although it was unusual that the request came from the landowner, felt that it was the landowner's right to preserve the trees and supported the recommendation.

Councillor Mrs Coe addressed the Committee as local Ward Member expressing that the mature hedge acted as a boundary and felt there was no requirement for this TPO. The Councillor felt that the request related to a previous application for log cabins where this hedge could act as a screen. A discussion ensued with regards to the nature of the request, the definition of a tree and the merits of protecting hedges under a TPO.

The Chairman clarified for the Committee that a confirmed TPO indicates that the trees in question cannot be felled or pruned without the Council's permission and that this consent can be obtained through the submission of an application. If granted, the trees can still be felled/prune.

***RESOLVED:-***

***That this Tree Preservation Order (TPO) be confirmed without modification.***

Abstention: Councillor Mrs Brown

PL/129      **PROPOSED TREE PRESERVATION ORDER 477 – LAND ADJACENT TO 59 MANCHESTER LANE, HARTSHORNE**

The Planning Services Manager presented the report clarifying the location of the trees and that the proposal had been submitted by some of the local residents of Manchester Lane.

***RESOLVED:-***

***That this Tree Preservation Order (TPO) be confirmed without modification.***

Abstention: Councillor Mrs Brown

PL/130 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

***The Committee was informed that no questions had been received.***

The meeting terminated at 7.20pm.

COUNCILLOR A ROBERTS

CHAIRMAN



PLANNING COMMITTEE

6<sup>th</sup> February 2018

**PRESENT:-**

**Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**In attendance**

Councillor Smith (Conservative Group) and Councillor Taylor (Labour Group)

PL/131 **APOLOGIES**

The Committee was informed that no apologies had been received.

PL/132 **DECLARATIONS OF INTEREST**

Councillor Harrison declared a personal interest in Item 1.1 by virtue of being an acquaintance of the applicant through Melbourne Parish Council. A detailed explanation of a personal declaration was provided and the Councillor advised that as a result he would participate in the discussion and subsequent vote.

Councillor Stanton declared a personal interest in Item 1.1 by virtue of knowing the applicant. Whilst referring to the detailed explanation of a personal interest as provided by Councillor Harrison, Councillor Stanton advised of his intention to participate in the discussion and vote.

PL/133 **MINUTES**

The Open Minutes of the Meeting held on 7<sup>th</sup> November 2017, 28<sup>th</sup> November 2017 and 19<sup>th</sup> December 2017 were taken as read, approved as a true record and signed by the Chairman.

PL/134 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

**MATTERS DELEGATED TO COMMITTEE****PL/135 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

**PL/136 THE SITING OF FOUR CABINS FOR HOLIDAY ACCOMMODATION AND CREATION OF ASSOCIATED PARKING, ALONG WITH THE WIDENING OF THE ACCESS ON LAND TO THE REAR OF NOS 45 TO 49 MANCHESTER LANE HARTSHORNE SWADLINCOTE**

The Chairman introduced the application by advising that a similar application had been put before Committee in June 2017, had two Tree Preservation Orders confirmed since this date and advised Members that as is the case with all applications, this application would be decided based on its own merits.

The Planning Services Manager presented the report updating the Committee of an amendment to Condition 13 regarding the maintenance of landscaping would be through a management plan as approved by this Authority and that an Appeal had been lodged against the decision made in June 2017. Members were advised that if this application had been for residential development, then it would be contrary to policy, however as the proposal would be for tourist development, this was deemed as appropriate development by virtue of different policies. Members were advised that the application had been refused previously as it was contrary to policies EV1, S1, BNE4 and INF10 based on 'alien pattern of development, unwarranted intrusion and unacceptable impact on the countryside'. Members were shown a map that accompanied the previous application in order to highlight the changes that had been made by the developer to address the reasons for its previous refusal. The Officer identified the changes to the location of the car parking and turning areas, plot 1, plot 4 and inclusion of a landscaped area with trees including the confirmation of two Tree Preservation Orders on the front and rear trees/hedgerows. The Planning Services Manager commented that this was a finely balanced case where the tourism and financial benefits needed to be assessed against the visual impact. Members were advised that the potential impact on amenities would be comparable to that of residential development, with planning conditions to control the tourist use of the site.

Mr Kevin Banton (objector) and Mrs Michelle Galloway (applicant's agent) attended the Meeting and addressed Members on this application.

The Planning Services Manager clarified that the business case had been provided by way of part of a statement submitted with the planning application outlining a clear intention of how the applicant wished to conduct business. In relation to the detail in the report, the Planning Services Manager highlighted

that reports are based on the professional judgement of the Planning Officer, and in this case the consultant landscape architect had been employed to advise the Case Officer.

The Vice-Chairman addressed the Committee as local Ward Member noting that due to the elevated position of the site, it would be visible. Members were advised that the previous application had been refused and very little had changed in this application except for the addition of two Tree Preservation Orders that had been confirmed for the trees at the front and rear boundaries of the site, which would be affected if the application was granted. The Vice-Chairman highlighted concerns relating to the materials proposed for the construction of the development, and emphasised they would be out of character, design and style and highlighted that in order to provide an adequate screen, sufficient growth of the planting would require many years. The Vice-Chairman drew attention to the potential number of vehicles that could visit the site to accommodate lodges and highlighted the lack of amenities in the area. Concerns were also raised regarding the potential noise from the use of hot tubs proposed for the outside area and with no on-site management the monitoring and enforcement of curfews would be difficult. For these reasons, the Vice-Chairman proposed to overturn the Officer's recommendation and refuse the application.

Some Members agreed that this application had not significantly changed since the previous one submitted to Committee in June 2017 and shared the Vice-Chairman's concerns regarding the potential number of occupants and subsequent vehicles on the site, the lack of on-site management, visual impact of the site.

Other Members commented that this application had changed and that the objections had been adequately addressed. Also the Highways Authority had no objections and the landscape masterplan had been welcomed by the National Forest. Concerns were raised with regards to the use of hot tubs, and subsequent suggestions were made to either remove the hot tubs or amend the condition to request the hot tubs be switched off and vacated by 10pm. It was noted that any noise concerns could be dealt with by the Council's Environmental Health department. Clarification was sought on the use of the site and the Planning Services Manager responded confirming that this proposal was recommended for approval based on the exceptional case that it be used for tourism not conventional residential purposes. One Member cited research conducted by Visit England, that a day tourist spends £20 per day on average, which increases to £120 if they stay overnight. The Member also referred to National Forest information that tourism in South Derbyshire is increasing and that accommodation is needed.

The Vice-Chairman, as local Ward Member, reminded Committee that trees that had been put under a Tree Preservation Order by the Committee 21 days previously would be felled if this application be granted and raised concerns about parking when the accommodation on the site is at full capacity. The Councillor also commented that these are family lets but there is no recreation area for young people. Further clarification was sought by Members with regards to the impact of this application on the confirmed Tree Preservation

Order. The Planning Services Manager responded confirming that widening the access at the entrance would result in some of those trees being felled, but the report indicated that loss of these would be mitigated by planting on-site.

A further discussion ensued regarding the potential difficulty in enforcing the conditions relating to the hot tubs and external music with no on-site management. Committee was informed by one Member that the National Forest, who own the majority of the planting on the opposite side of the valley had indicated an intention to open up the view and asked that Members be mindful of the impact this would have.

A discussion ensued regarding the wording for a reason for refusal with advice offered by the Planning Services Manager regarding current policy.

**RESOLVED:-**

***That planning permission be refused contrary to the recommendation in the report of the Strategic Director (Service Delivery), on similar grounds to the previous reason with updates to reflect current policy and the loss of trees in a Tree Preservation Order.***

Councillor Smith left the Meeting at 7:00pm

PL/137 **THE ERECTION OF PAVEMENT PLAQUES, WALL PLAQUES AND LECTERNS AT VARIOUS LOCATIONS IN AND AROUND SWADLINCOTE**

The Principal Area Planning Officer presented the report and showed the Committee examples of the plaques proposed.

Councillor Watson informed Members that as the Chairman of Swadlincote Townscape Heritage Lottery Fund Board, the proposal had been welcomed.

One Member sought clarification on private residences and asked if new residents no longer wished for the plaque to be displayed, how this would be addressed. It was confirmed that the plaques would be affixed upon the consent of residents.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery).***

PL/138 **DEMOLITION OF CONSERVATORY AND THE ERECTION OF A REAR EXTENSION AT 52C DERBY ROAD MELBOURNE DERBY**

The Principal Area Planning Officer presented the report to Committee.

Members sought clarification on the Council's SPD guidelines with regard to separation distances; this was provided by the Officer who further advised that site conditions would dictate that these distances could be reduced. Councillor Harrison, as local Ward Member, indicated his satisfaction with the Officer's explanation.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery).***

PL/139 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2017/0513      Main Street, Milton  
9/2017/0516      Main Street, Milton

PL/140 **PROPOSED TREE PRESERVATION ORDER 474 – LAND TO THE EAST OF RYKNELD ROAD (HIGHFIELDS FARM DEVELOPMENT), DERBY**

**RESOLVED:-**

***That this Tree Preservation Order (TPO) be confirmed.***

PL/141 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**EXEMPT MINUTES**

***The Exempt Minutes of the Meeting held on the 28th November 2017 were taken as read, approved as a true record and signed by the Chairman.***

**EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

***The Committee was informed that no questions had been received.***

The meeting terminated at 7.10pm

COUNCILLOR MRS L BROWN

CHAIRMAN

# **REPORT OF THE STRATEGIC DIRECTOR** **(SERVICE DELIVERY)**

## **SECTION 1: Planning Applications** **SECTION 2: Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/1196	1.1	Dalbury Lees	Etwall	16
9/2017/1315	1.2	Hilton	Hilton	24
9/2018/0090	1.3	Swadlincote	Swadlincote	31
9/2018/0160	1.4	Swadlincote/ Woodville	Swadlincote/ Woodville	39
9/2018/0209	1.5	Stenson	Stenson	43
9/2018/0225	1.6	Swadlincote	Swadlincote	47

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 Strategic Director (Service Delivery)'s 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 Strategic Director (Service Delivery), arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

**Item**            **1.1**

**Ref. No.**        **9/2017/1196/FO**

**Applicant:**  
**Mr Morley**  
**C/O Agent**

**Agent:**  
**Mr Dominic Cooney**  
**Planning And Design Practice Ltd**  
**3 Woburn House**  
**Vernon Gate**  
**Derby**  
**DE1 1UL**

**Proposal:**     **OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR  
THE ERECTION OF TWO DWELLINGS AT LAND NORTH OF THE  
SCHOOL HOUSE UNNAMED ROAD FROM LONG LANE TO  
DALBURY HOLLOW DALBURY LEES ASHBOURNE**

**Ward:**           **ETWALL**

**Valid Date**    **22/11/2017**

**This case is returned to the Committee because the vote taken at the last meeting was inconclusive. The report remains unchanged.**

**Reason for committee determination**

The item is presented to Committee at the request of Councillor Muller because a local concern has been expressed about a particular issue.

**Site Description**

The site is part of a wider field which intrudes in between properties on Main Road, north of Lees. The bungalow known as The School House is to the south and is sited on lower ground. There is a 1m hedge and fence on this boundary. The western section of the property has been sub-divided and is currently being renovated. A bungalow lies to the north (Lees Bank), at a higher level than the site, and there are open fields opposite. The rear of the site is open to the wider field it forms part of.

**Proposal**

Outline permission is sought for two dwellings with matters of access, layout, scale appearance and landscaping reserved for later consideration. The indicative plan shows dwellings in line with the neighbouring properties, individual accesses and parking/garaging space.



Hillsway

Brookfields

Talland

Grange View

114.2m

THE SITE

The School House

Hall

Track

Pond

Longlane

Nunsfield

Langley Green

Lees

Trusleywood

Woodhouse Fm

Trusley

Ostleston

Hall

Grange Fields

Water Tower

ROMAN F

Langley Green

The Pastures

Foxfields Fm

Langley C

Kirk Lane

Burrows

133

129

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North Arrow

Coat of Arms

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## **Applicants' supporting information**

The Planning Statement describes the site and the surrounding area identifying the village facilities of a pub and village green, with the nearest school 1.6km to the west and church 3km to the south. The character of the village is described as a small linear village with a mix of two-storey red brick dwellings and bungalows. It states that pre-application advice was given that the proposal constituted infill development facilitated by policy BNE5. It states one detached house (southern plot) and one bungalow (northern plot) would be in-keeping with the character and would protect the privacy of neighbouring properties. A distance of 12m could be achieved between the blank wall of the proposed property and the main room windows on the northern elevation of The School House, whilst properties would be set back from the frontage similar to existing dwellings. The site is described as not visually prominent with a limited impact on the wider landscape character. Existing hedgerow would have to be removed but would be replaced in accordance with the required visibility splays. National and local planning policies are summarised and the report concludes that the proposal would constitute infilling in accordance with policy BNE5 and is similar to the infill dwelling permitted opposite.

## **Planning History**

None

## **Responses to Consultations**

The County Highway Authority has no objection to amended plans and recommends conditions in relation to the new access, closure of the existing access, parking and gates.

The Environmental Health Officer states that there is some evidence of the presence of potential infill and as such an informative is required.

## **Responses to Publicity**

Dalbury Lees Parish Council objects as the site is outside the settlement boundary, as per the Local Plan Part 2, and the pre-application advice given seeks to overrule the Part 2 Local Plan. One of the dwellings would overlook The School House and may cause drainage problems.

Two letters of objection have been received raising the following concerns:

- a) The School House is a separate dwelling from the westernmost part of the building and as such there are no west facing windows;
- b) The windows in the northern elevation of The School House are significant with the ground floor ceiling heights at 2.1m and first floor cut into the roofline and as such a new house on higher land could easily be over-bearing;
- c) The proposed dwelling should be carefully designed and should be a 'compact form' as stated in the submission;
- d) The proposal is outside of the village permitted building areas as in the Local Plan Part 2.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), S6 (Sustainable Access), 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)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) BNE5 (Development in the Countryside) and BNE7 (Trees, Woodland and Hedgerows)

## **National Guidance**

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

## **Planning Considerations**

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

- The principle of development;
- Highway safety impacts;
- Character and residential amenity; and
- Impacts on hedgerow

## **Planning Assessment**

### Principle of Development

The site is outside the settlement boundary of Lees and is thus considered as countryside. Policy H1 of the Local Plan Part 1 (LP1) considers limited infill and conversions of existing buildings to be acceptable in rural areas (countryside) and policy BNE5 of the Local Plan Part 2 (LP2) allows for infilling if it is considered to be in keeping with the character of the locality and represents infilling of a small gap for not normally more than two dwellings, within small groups of housing. Another requirement of the policy is that development would not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets.

The proposal is considered to constitute infilling of a small gap between dwellings in an area where the character is of linear development along the road frontage within relatively generous plots. This linear development becomes more fragmented heading north out of the village when compared to the more contiguous built up form within the settlement confines. There is thus some scope to argue that the consolidation of the ribbon would alter the character of this approach to the village,

particularly when considering the cumulative impact with the previous item on this agenda. However, the generally spacious nature of the plots allows the countryside to permeate around the dwellings and up to the roadside. The site is also not considered to represent an important gap between groups of housing due to its size and context. The harm arising is therefore not considered to be so great to fundamentally alter the character of the locality, or be at odds with it.

The scale of the dwellings also varies at this point of the lane with increasing focus towards single storey development, or at least retiring into the slope of the land. Nonetheless, the garden would link with the boundaries of the existing properties either side and due to the land level dropping to the south east along with existing screening; any long distance views would be viewed in context with the existing built development and would not result in an intrusion into the countryside. The principle of development is considered acceptable and accords with policies H1 and BNE5.

### Highways

Policy INF2 of the LP1 requires that appropriate provision is made for safe and convenient access to and within the development. Whilst access is a reserved matter, the Highways Authority requires accesses which can achieve adequate visibility. The revised indicative plan shows visibility sightlines of 2.4m x 43m can be achieved in both directions, in line with the normal requirements. Therefore there is no objection and further detail of access can be deferred to the reserved matters stage. The proposal accords with policy INF2 and paragraph 32 of the NPPF.

### Character and residential amenity

Layout, scale, appearance and landscaping are all reserved matters. Whilst a detailed assessment would be carried out at that later stage, it is necessary to establish the scope for the proposal development to achieve a satisfactory form in all these respects. The Planning Statement suggests that a bungalow is proposed in the northernmost plot to protect the outlook of Lees Bank to the north. A two storey dwelling is proposed in the plot adjacent to The School House, but with a 12m separation distance. That property has main room windows overlooking the site, but a 12m distance to a blank gable would achieve the minimum distance guidelines and thus the indicative layout demonstrates an appropriate impact. A bungalow and a dwelling would be in keeping with the character of the area and the effect on other dwellings is considered to be acceptable in principle. Any reserved matters application would have to accord with the Design Guide in any case – so not to have an adverse impact on the amenity of existing nearby occupiers and be appropriately designed in accordance with policy BNE1 of the LP1, the SPD and the NPPF.

### Impacts on hedgerow

The loss of hedgerow is not ideal, but they are not considered to be so significant to warrant retention in situ. It could be translocated or replaced under the detail of reserved matters, and further compensatory planting can be secured by appropriate application of boundary treatments to the rear of the site. This would accord with policy BNE7 of the LP2.

## Summary

The proposal is considered to qualify as infilling as it would fill a small gap within two existing properties. Whilst the existing fragmented ribbon would be consolidated with the edge of the village, it is not considered substantial so to alter the character of the locality – subject to conditions. Adequate emerging visibility can be achieved to ensure a safe and suitable access whilst impacts on existing hedgerow and neighbouring properties can be safeguarded and considered in detail under the reserved matters submission.

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

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

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following reserved matters on an application made in that regard:
  - (a) access,
  - (b) appearance,
  - (c) landscaping,
  - (d) layout, and
  - (e) scale.

The matters of scale shall demonstrate that northern plot has eaves and ridge heights comparable to the adjoining property to the north of the site, and that the southern plot has eaves and ridge heights comparable to the adjoining property to the south of the site.

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

3. An Arboricultural Method Statement shall be submitted with the layout and scale reserved matters application(s). This shall explore the scope for translocation of the existing hedgerow to achieve access parameters set by condition 4. The development shall be carried out in conformity with the approved details throughout the course of the development, with any translocation works completed prior to the first occupation of the dwelling.  
Reason: To safeguard and retain existing hedgerow wherever possible.
4. Before any works involving the construction of the dwelling commences, a new vehicular and pedestrian access shall be formed to each plot with visibility sightlines extending from a point 2.4 metres back from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres to the nearside carriageway edge in both directions. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.  
Reason: To ensure safe and suitable access for all users, in the interests of highway safety.
5. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.  
Reason: In the interests of highway safety.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
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 landowner.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business

premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.



**Item**            **1.2**

**Ref. No.**        **9/2017/1315/B**

**Applicant:**  
**Aldi Stores Limited**  
**Holly Lane**  
**Altherstone**  
**Warkwickshire**  
**CV9 2SR**

**Agent:**  
**Mr Scott Bryden**  
**216 Fort Dunlop**  
**Fort Parkway**  
**Birmingham**  
**B24 9FD**

**Proposal:**    **THE VARIATION OF CONDITION 11 OF PLANNING PERMISSION REF: 9/2016/0010( RELATING TO RETROSPECTIVE APPLICATION TO VARY CONDITION 15 OF PLANNING PERMISSION REF: 9/2012/0505) TO READ: "NOTWITHSTANDING THE SUBMITTED DETAILS, FROM THE DATE OF THIS PERMISSION, THE CUSTOMER CAR PARK ACCESS SHALL BE CLOSED USING BARRIERS OUTSIDE STORE OPENING OR DELIVERY HOUR", AT ALDI FOOD STORE LTD HUNTSPILL ROAD HILTON DERBY**

**Ward:**           **HILTON**

**Valid Date**    **18/12/2017**

**Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager as the application affects a planning condition previously imposed by the Committee.

**Site Description**

The store is situated within a local centre in a residential area. Vehicular access is from Huntspill Road and there is a segregated pedestrian only access to The Mease.

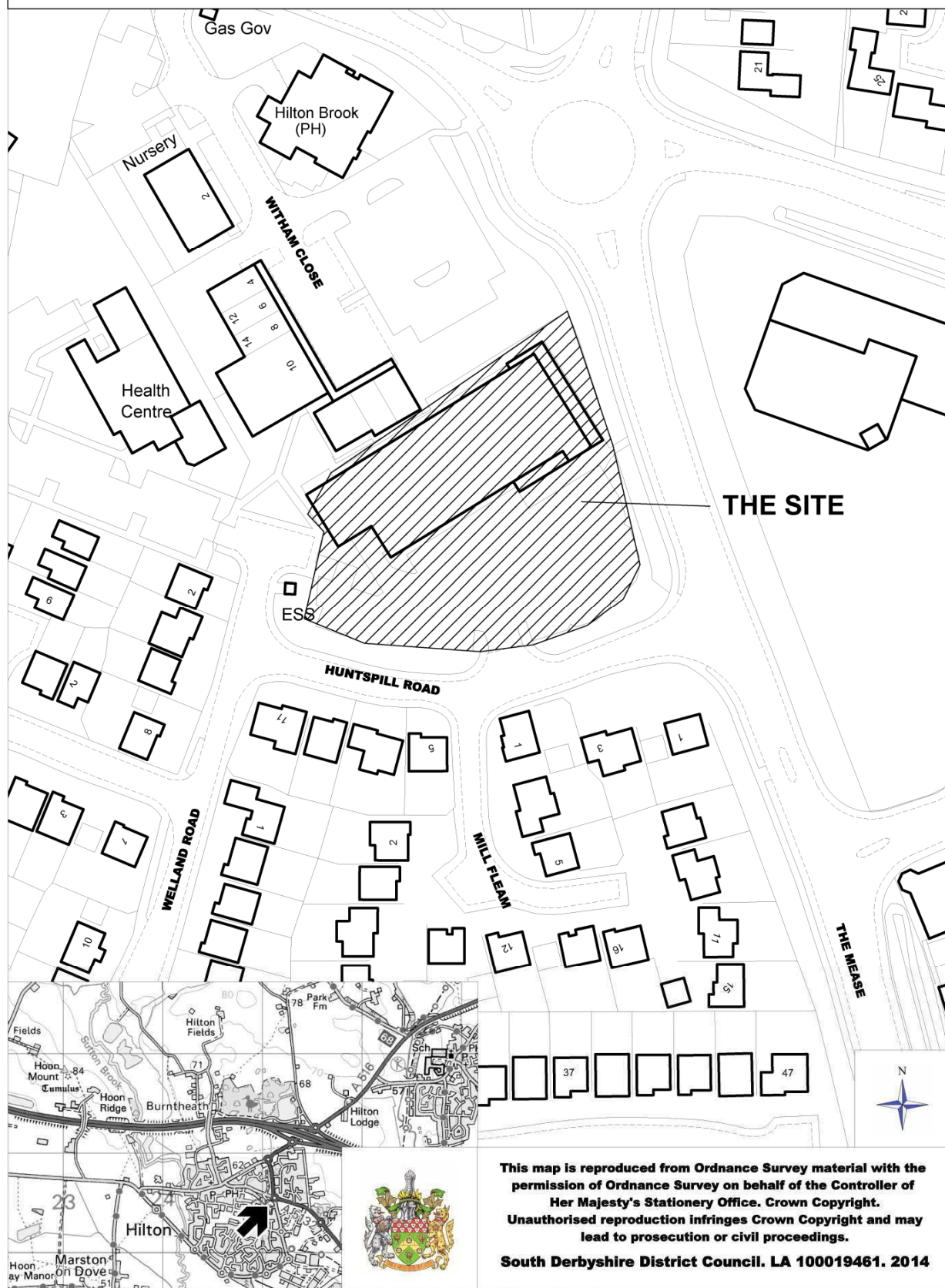
**Proposal**

The application proposes to vary Condition 11 attached to Planning Permission 9/2016/0010 which requires:

Notwithstanding the submitted details, from the date of this permission, the customer car park access shall be closed using barriers outside store opening or delivery hours. Within 3 months of this permission, the existing pedestrian access from The Mease shall be permanently closed using a barrier the details



9/2017/1315/B - ALDI FOOD STORE, HUNTSPILL ROAD, HILTON DE65 5HD



of which shall have previously been submitted to and approved in writing by the local planning authority.

The proposed alternative wording would be:

Notwithstanding the submitted details, from the date of this permission, the customer car park access shall be closed using barriers outside store opening or delivery hours.

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

The applicant's architect considers that closure of the pedestrian access to The Mease could lead to intervention by the Health and Safety Executive in the event of injury caused as a result of its unavailability. As named Principal Designer under The Construction (Design and Management) Regulations 2015 he considers this condition to be in breach of the CDM regulations and that Health and Safety legislation should take priority over planning legislation in this case.

### **Planning History**

9/2009/0436 - Food store.

9/2012/0505 - Amended scheme.

9/2016/0010 – Variation of condition to enable longer opening and delivery hours.

In response to the last application various conditions were imposed to mitigate the impacts of increased hours of opening, in particular, and in addition to the subject condition:

Condition 1. Within three months of the date of this permission a physical barrier, designed to prevent glare from car headlamps to housing opposite, shall be provided across the Huntspill Road site frontage in accordance with details and specifications which shall have previously been submitted to and approved in writing by the local planning authority. Thereafter the barrier shall be retained in place as approved.

Condition 9. Notwithstanding the submitted Delivery Management Plan ref. C15A138, received on 7 August 2017, within 28 days of the date of this permission, a revised plan shall be submitted to the local planning authority which shall include (in addition to the measures in the submitted plan): arrangements for a banksman(men) to guide deliveries into the site from the public highway, no reversing alarms shall be used before 08:00 hrs on any day. The plan shall be operated continuously from the date of the approval of the revised plan by the local planning authority.

Condition 10. Within two months of the date of the approval of the revised Delivery Management Plan, a scheme for monitoring and recording compliance with the Delivery Management Plan subject to Condition 9 shall be submitted to and approved in writing by the local planning authority. The scheme shall be

implemented on approval and the records shall be made available to the local planning authority on request.

Condition 12. Within three months of this permission, signage shall be erected in the customer car park to remind customers to park considerately on surrounding residential streets. The signage shall be retained for the life of the development.

## **Responses to Consultations**

The Highway Authority considers that the route provides an obvious desirable link into the store for those approaching from the north of the site and, with the footpath link being in closer proximity to the bus routes through the village, encourages more sustainable forms of travel. Furthermore, requiring use of the Huntspill Road access by all shoppers would increase any potential for conflict in the car park between vehicles, including service vehicles, pedestrians and more vulnerable road users.

The Environmental Health Manager states that employers have a general duty under the Health and Safety at Work etc. Act 1974 to protect employees and customers from harm. More specifically Regulation 17 of the Workplace (Health, Safety and Welfare) Regulations 1992 requires the organisation of traffic routes to ensure that pedestrians and vehicles can circulate in a safe manner (exact requirements below). As such, if the pedestrian access route was permanently closed, this would cause or encourage pedestrians to walk across the car park and therefore increase the risk of harm to pedestrians and breach the above regulation. He therefore strongly recommends that the walkway should not be permanently blocked.

## **Responses to Publicity**

The Parish Council makes no comment.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 S6, INF2
- 2017 Local Plan Part 2:

## **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)

Section 4 (Promoting sustainable transport)

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)

## Annex1 (Implementation)

### Planning Considerations

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

- Public safety
- Sustainable transport

### Planning Assessment

#### Public Safety

Whilst the second part of Condition 11 Condition was imposed in response to local concern, the Highway Authority and the Council's own Environmental Health Manager have nevertheless expressed the strong view that closure of the pedestrian access could increase safety related conflict by displaced pedestrians using the vehicular access point, necessitating crossing the car park where vehicles are constantly manoeuvring. The applicant's concerns about the CDM Regulations add weight to the public safety arguments in favour of the application. The proposal is thus in accord with Policy INF2 which requires appropriate provision to be made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car.

#### Sustainability

Local Plan Policy S6 seeks to encourage walking and other sustainable transport modes. Policy INF2 translates this to appropriate provision for individual developments. Retention of the access would further the aims of these policies which also form a core principle 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 timber fencing shown on Drawing No Z12A03-W1003 shall be retained in place for the lifetime of the development and any damage or loss shall be replaced within 1 month of any such event.  
  
Reason: In the interests of the amenities of neighbours and the appearance of the area.
2. Other than as may have been previously approved pursuant to planning permission 9/2012/0505 no external lighting shall be installed unless precise details and specifications 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. Thereafter any such lighting shall be retained in conformity with the approved details and specifications.

Reason: To preserve amenity and/or prevent danger to road users.

3. All planting, seeding or turfing comprised in the approved details of landscaping shown on Dalkin Scotton Partnership Drawing No. T08A94-008 Rev A shall be carried out in the first planting and seeding seasons following the grant of this permission; and any trees or plants which within a period of five years therefrom 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.

4. The land in advance of the sight lines measuring 2.4m x 45m from the centre of the site access shall be retained free of all obstructions to visibility over a height of 1 metre (600mm in the case of vegetation) above the adjoining carriageway level.

Reason: In the interests of highway safety.

5. The parking and manoeuvring areas shown on the amended drawing T08A94-004 Rev H shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: To ensure that adequate parking provision is maintained available throughout the life of the building.

6. Other than as approved pursuant to planning permission 9/2012/0505 any new plant and equipment to be installed on the building, including air conditioning and refrigeration units, shall be implemented in accordance with details and specifications previously submitted to and approved in writing by the local planning authority, and shall thereafter be maintained in accordance with the approved details and specifications.

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

7. The store hereby permitted shall not be open to the public outside the following times: 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays; and no deliveries or collections shall be taken at or despatched from the site outside the following times: 07:00 - 19.00 Monday to Saturday and 09.00 - 17.00 Sundays and Bank Holidays.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

8. The submitted Delivery Management Plan ref. C15A138, received on 30 November 2017, shall be operated continuously from the date of this permission; and no reversing alarms shall be used before 08:00 hrs on any day.

Reason: In the interest of residential amenity and on-site safety.

9. The scheme for monitoring and recording compliance with the Delivery Management Plan, submitted on 04 January 2018, shall be implemented for the lifetime of the development and the records shall be made available to the local planning authority on request.

Reason: In the interest of residential amenity

10. Notwithstanding the submitted details, from the date of this permission, the customer car park access shall be closed using barriers outside store opening or delivery hours.

Reason: In the interests of residential amenity.

11. The three signs displayed in the customer car park to remind customers to park considerately on surrounding residential streets shall be retained for the lifetime of the development.

Reason: In the interests of residential amenity and highway safety.

Informatives:

1. 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. 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. The company is encouraged to arrange and attend liaison meetings with local residents.

**Item**            **1.3**

**Ref. No.**        **9/2018/0090/NO**

**Applicant:**  
**Mrs D Holland**  
**The Pingle Academy**  
**Coronation Street**  
**Swadlincote**  
**DE11 0QA**

**Agent:**  
**Mr T Betts**  
**Surfacing Standards Ltd**  
**1a Perth House**  
**Corbygate Business Park**  
**Priors Haw Road**  
**Corby**  
**NN17 5JG**

**Proposal:**    **REFURBISHMENT OF ARTIFICIAL GRASS PITCH (AGP)**  
**INCLUDING REPLACEMENT PITCH SURFACE (SIZED 106 X 70M),**  
**REPLACEMENT BALL STOP FENCING AROUND AGP**  
**PERIMETER, INSTALLATION OF NEW HARDSTANDING AREA**  
**CONNECTING AN EXISTING MAINTENANCE EQUIPMENT STORE**  
**TO THE AGP ENTRANCE TO FACILITATE MAINTENANCE**  
**OPERATIONS, AND REFURBISHMENT OF EXISTING FLOODLIGHT**  
**SYSTEM WITH 14 REPLACEMENT LUMINARIES MOUNTED ONTO**  
**6 EXISTING FLOODLIGHT MASTS AT PINGLE SCHOOL**  
**CORONATION STREET SWADLINCOTE**

**Ward:**            **SWADLINCOTE**

**Valid Date**    **24/01/2018**

**Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager.

**Site Description**

The site is currently used as an all-weather sports pitch located within the sports fields of Pingle School. The pitch currently benefits from acoustic fencing, ball stop fencing and flood lighting. The site is located adjacent to residential properties to the north and west of the site, with the nearest dwelling house being located 40m away from the pitch.

**Proposal**

Consent is sought to re-surface the existing sports pitch and for the creation of an area of hardstanding to the north of the site for maintenance access. The existing



DE11 0QA





ball stop fencing is proposed to be replaced. The current ball stop fencing is 3.5-5m in height around the perimeter of the pitch, the proposed ball stop fencing would be 4.5m in height and would be painted RAL6005 Moss Green to reduce its visual impact. The pitch currently has six floodlight posts containing sixteen luminaires. The applicants intend to retain the posts and remove the sixteen luminaires and replace them with fourteen more efficient luminaires in order to reduce their impact.

## **Applicant's supporting information**

### Design and Access Statement and Planning Statement

The site is located within an open playing field and the intention is to develop the pitch to create as little visible impact as possible. The installed appearance of the new pitch would comprise of a 3G artificial grass containing a 60mm pile and partially in-filled with silica sand (for stability) and granulate rubber (for performance) which would be grass green in colour. This surface is recognised as the most suitable artificial playing surface for community football and youth football development.

The proposed ball stop fencing would be 4.5m in height and would be finished powder coated RAL6005 moss green, supported with an intermediate post system and entrance gates of matching colour. The existing acoustic barrier along the northern and western pitch perimeter will remain in situ and continue to provide acoustic mitigation to adjacent residential properties.

There are currently six, fifteen metre high steel masts with sixteen luminaires attached to them. The proposal requires the current six masts (there shall be no changes to the size or position of the masts) to remain in place and for fourteen new luminaires to replace the current sixteen luminaires. This should reduce the current illumination by ten percent on site. The installed appearance of the new hardstanding area would be grey/ black coloured porous asphalt.

## **Planning History**

The planning applications listed below have been submitted and approved with conditions for the all-weather pitch at Pingle School.

9/2011/0463 - The erection of a six metre high attenuation fence – Approved with conditions

9/2007/0597 - The erection of an acoustic barrier around the all-weather pitch – Approved with conditions

9/2004/1461 - The formation of a synthetic grass pitch with associated fencing and floodlighting – Approved with conditions

9/2011/0787 - The erection of a replacement footbridge on land to the south west and the formation of sports pitches adjacent to the western boundary  
- Approved with conditions

9/1994/0911 - The upgrading including the installation of eight 18 metre high floodlight columns and a part 3 metre high boundary fence on the perimeter of the Redgra Sports Pitch - Approved with conditions

## **Responses to Consultations**

The Environmental Health Officer has no objections to the proposed works provided that the specification of the ball stop fencing could be conditioned to ensure that there would be no movement of the joints of the fencing and therefore ensure that noise is minimised. The intensity of the illumination of the flood lighting could be controlled through planning conditions.

The Coal Authority has no objections as the proposed works would not be ground intrusive and would not require a Coal Mining Risk Assessment.

## **Responses to Publicity**

There have been two queries raised from a member of the public and one objection:

- a) The impact of the illumination.
- b) When the original artificial pitch was installed there were significant issues with regards to noise and additional noise controls were required, including noise barriers and reduced operating hours. It is assumed that the noise reduction boards will be to the same standard or better and there will be no more/ brighter lights. It is assumed that these issues will be considered in the determination of this application by officers?
- c) The lighting plan appears to show an impact on No 18 Hazel Close (shaded green on the plan (Appendix A) can this be reduced so there is no impact from the floodlights?
- d) No objections as the effects are similar to the existing.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development),.

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Impact of proposed re-surfacing and hardstanding
- Impact of proposed ball stop fencing
- Impact of proposed illumination
- Other Matters

## **Planning Assessment**

### Impact of proposed re-surfacing and hardstanding

Policies INF6 and INF9 of the Local Plan Part One support the creation, enhancement and retention of sports facilities in the district. It is acknowledged, that there is a lack of sport and recreation facilities to meet local needs and steps and opportunities for creating new facilities or enhancing existing facilities are sought after. The current pitch is beginning to show evidence of joining seams starting to separate and if the condition of the pitch would continue to worsen, this would then impact on the ability for the pitch to function as an all-weather sports facility. The re-surfacing of the pitch to the specification detailed above would allow the facility pitch to remain suitable for all weather sports and would ensure the enhancement and retention of the facility. The proposed re-surfacing would comply with policies INF6 and INF9 of the Local Plan Part One.

The proposed resurfacing of the pitch and the section of hardstanding to the north of the site would have no visual impact when seen from the public realm and wider area as the new surface would be green in colour in a playing field setting to reduce the impact. On the basis that there would be no harmful visual impact and the proposed works would comply with policy BNE1 of the Local Plan Part One.

The existing sports pitch is currently used for various sports activities and whilst the proposed works would improve the facility, this would not necessarily increase the rate of use of the pitch as the hours of operation would remain controlled under planning permission 9/2004/1461.

### Impact of proposed ball stop fencing

Concerns have been raised by the Environmental Health Officer on previous occasions with regard to the likely noise of balls hitting the ball stop fencing, as loose fittings can cause the fencing to rattle and therefore generate noise. However, specifications for the fencing have been submitted that show that the new joint design would reduce movement and therefore noise. This specification could be controlled through planning conditions and there have been no objections raised by the Councils Environmental Health Officer. The proposed fencing would improve the current noise situation, as the existing ball stop fencing is not specified to this standard and has become worn over time. The new ball stop fencing would improve

the level of amenity for local residents and would comply with policy SD1 of the Local Plan.

The current ball stop fencing that surrounds the pitch is 3.5m in height and rises to 5m in height adjacent to the goal areas. The fencing would be 4.5m in height all the way around the pitch and would be painted RAL6005 moss green in colour. Given the slight increase in height in some areas and the reduction in others, there would be a minimal visual impact from the changes. The change in colour of the fencing to moss green would help the fencing integrate into the playing field setting and would improve its current appearance and would comply with policy BNE1 of the Local Plan.

The existing acoustic barrier along the northern and western edges of the pitch will remain untouched in order to provide acoustic mitigation to the neighbouring properties adjacent.

#### Impact of proposed illumination

There are currently six flood light masts which are fifteen metres in height, which are positioned along the eastern and western edges of the pitch (three on each side). There are three luminaires positioned on each mast in the corners of the site and two luminaires positioned on the masts at the centre. The existing masts are to be retained and there are proposed to be two luminaires placed on the masts at the corners of the pitch and three luminaires at the masts in the centre of the pitch. This would result in a reduced level of illumination to the current flood lighting scheme that is in place and would result in lights that would generate less light pollution (i.e. less unnecessary spread of light) and would light up the concentrated area of the pitch. This would result in an improvement to the existing scheme and the intensity of the illumination could be controlled through the use of planning conditions. There have been no objections raised by the Councils Environmental Health Officer and the works would comply with policy SD1 of the Local Plan.

#### Other Matters

There have been no objections raised by the Coal Authority as the proposed works would not create significantly intrusive ground works and a Coal Mining Risk Assessment would not be required.

#### Conclusion

The proposed works would allow improvements to an existing sports facility in an area where sports provision does not meet the local need. The proposed works would enhance the existing pitch and would result in less harm through both noise and light pollution to adjacent neighbouring properties.

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 plan/drawing SSL2342 - 01; plan/drawing SSL2342-02; plan/drawing SSL2342-04; plan/drawing SSL2342-05; and plan/drawing plan/drawing SSL2342-06; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The ball stop fencing, to which this permission relates, shall be erected and maintained in accordance with the submitted Appendix J Specification Details received on 23rd February 2018, unless alternative details are first agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first use of the newly laid pitch hereby permitted.  
Reason: In the interest of reducing noise pollution and in the interest of the amenity of neighbouring properties.

### Informatives:

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, 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 a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com) or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**Item**            **1.4**

**Ref. No.**        **9/2018/0160/L**

**Applicant:**  
**Miss Kate Allies**  
**South Derbyshire District Council**  
**1a Rosliston Forestry Centre**  
**Burton Road**  
**Rosliston**  
**Swadlincote**  
**DE12 8JX**

**Agent:**  
**Miss Kate Allies**  
**South Derbyshire District Council**  
**1a Rosliston Forestry Centre**  
**Burton Road**  
**Rosliston**  
**Swadlincote**  
**DE12 8JX**

**Proposal:**    **LISTED BUILDING CONSENT TO FIX A PLAQUE TO THE WALL AT SHARPES POTTERY AND BRETBY POTTERY IN ACCORDANCE WITH PLANNING REFERENCE: 9/2017/1160 FOR VARIOUS LOCATIONS (SHARPES POTTERY & BRETBY POTTERY)**

**Wards:**        **SWADLINCOTE AND WOODVILLE**

**Valid Date**    **06/02/2018**

**Reason for committee determination**

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

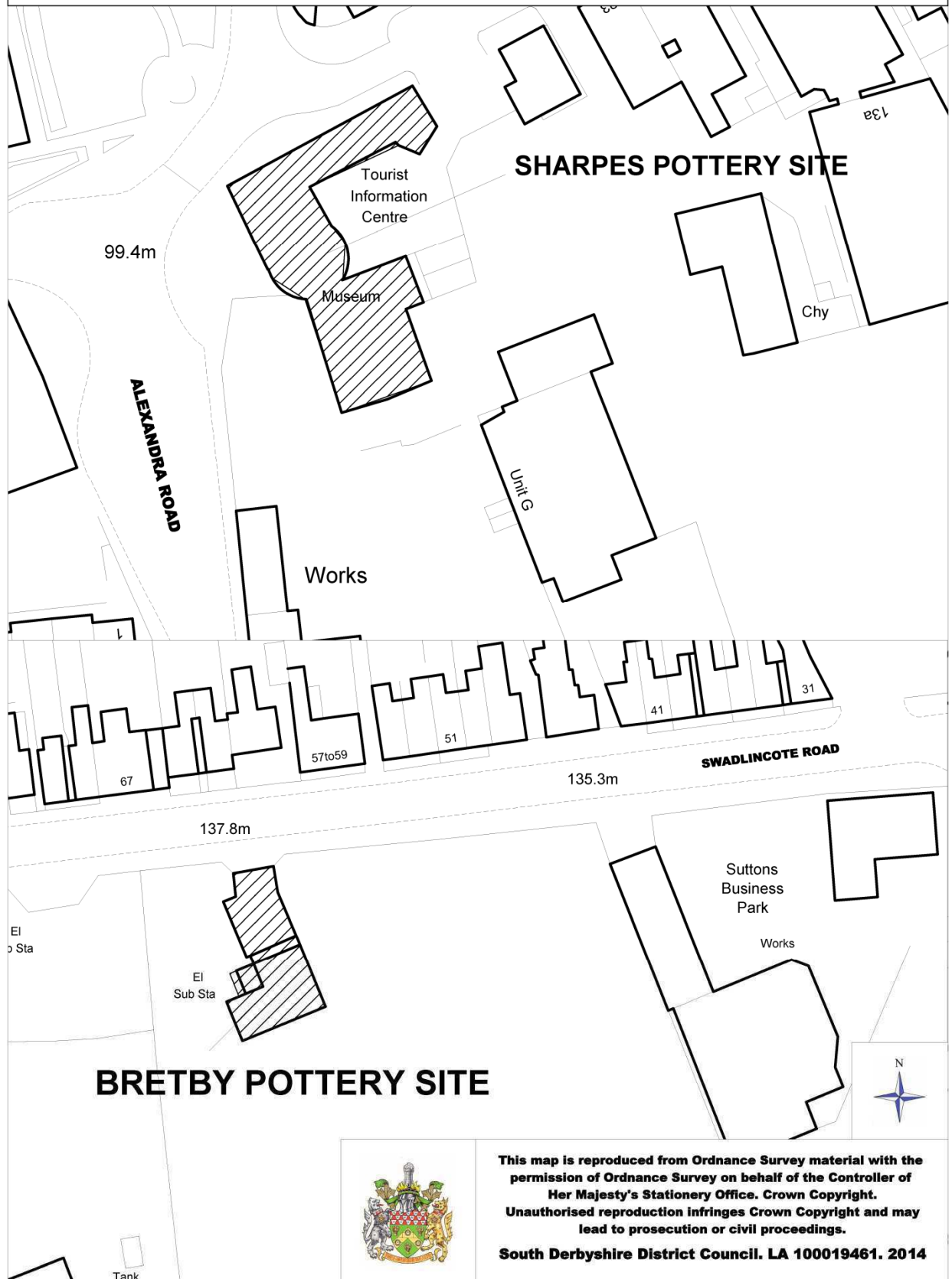
**Site Description**

The listed building application relates to Sharpes Pottery which is located within the town centre on the corner of West Street and within the Swadlincote Conservation Area, and Bretby Pottery which is located in Woodville on Swadlincote Road. Both buildings are grade II listed. Planning permission was granted under planning application 9/2017/1160 for the display of various plaques and lecterns throughout the town centre, Newhall, Hartshorne, Church Gresley and Woodville, of which Sharpes Pottery and Bretby Pottery were two of the sites that were included in this. The plaques are part of a Heritage Trail that has been designed to commemorate previous occupants who have previously lived in the buildings concerned or historic events that have taken place throughout the town centre and wider area.

**Proposal**

Listed building consent is sought for the fixing of the plaques which would be 300mm in diameter and made from zinc. It is proposed for the plaques to be fixed through the mortar joints of the buildings to reduce harm to the historic fabric.





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## **Planning History**

Planning application 9/2017/1160 was granted for planning permission for the display of plaques on Sharpes Pottery and Bretby Pottery as well as various plaques and lecterns throughout the town centre, Newhall, Hartshorne, Church Gresley and Woodville. This was approved with conditions on 7<sup>th</sup> February 2018 at Planning Committee.

## **Responses to Consultations**

Conservation Officer comments are referred to in the Planning Assessment below.

## **Responses to Publicity**

There has been no comments/objection received as part of the application.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Swadlincote Town Centre Character Statement

## **Planning Considerations**

The main issue central to the determination of this application is the impact on heritage assets.

## **Planning Assessment**

Owing to the approval of planning application 9/2017/1160 for planning permission for the display of the proposed plaques, it would be necessary for the current listed building application to be assessed on the impact of the fixings to the listed buildings.

### Impact on heritage assets

Policy BNE2 of the Local Plan Part 1 and Policy BNE10 of the Local Plan Part 2 stipulate that development should protect, conserve and enhance heritage assets within the District. The position of the proposed plaques on the buildings would have a neutral impact on the historic fabric of the buildings and would seek to promote the heritage of the Swadlincote Area.

The details submitted with the application confirm that the fixtures would be created through the existing mortar joints, in order to limit the damage to the historic fabric of the buildings. This would result in very little harm to the buildings and would be reversible and easily repaired if, or when it would be removed. The proposal would be considered to preserve the special interest of Sharpes Pottery and the Bretby Showroom in line with BNE2 and BNE10.

### Conclusion

The proposed plaques would have a minimal impact on the historic significance of the buildings and would help to promote the history in the local area. On the basis of this, the proposal would comply with the principles of policies BNE1 and BNE2 of the Local Plan Part1 and policy BN10 of the Local Plan Part 2.

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

### **Recommendation**

**GRANT** Listed Building Consent 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 plaques hereby permitted shall be carried out in accordance with sizes and locations as specified within the Swadlincote Heritage Trail A: Swadlincote Town Centre Table 1, received on 6th February 2018.  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Any fixtures or fittings shall be affixed to the building through the mortar joints in accordance with the application details received on 6th February 2018.  
Reason: To limit any damage to the buildings and historic fabric and to ensure that the works are reversible.

**Item**            **1.5**

**Ref. No.**        **9/2018/0209/TC**

**Applicant:**  
**Mr Neil Atkin**  
**Stenson House**  
**Derby Road**  
**Stenson**  
**Derby**  
**DE73 7HL**

**Agent:**  
**Mr Neil Atkin**  
**Stenson House**  
**Derby Road**  
**Stenson**  
**Derby**  
**DE73 7HL**

**Proposal:**    **THE FELLING AND PRUNING OF TREES AT STENSON HOUSE**  
                  **DERBY ROAD STENSON DERBY**

**Ward:**           **STENSON**

**Valid Date**    **13/02/2018**

**Reason for committee determination**

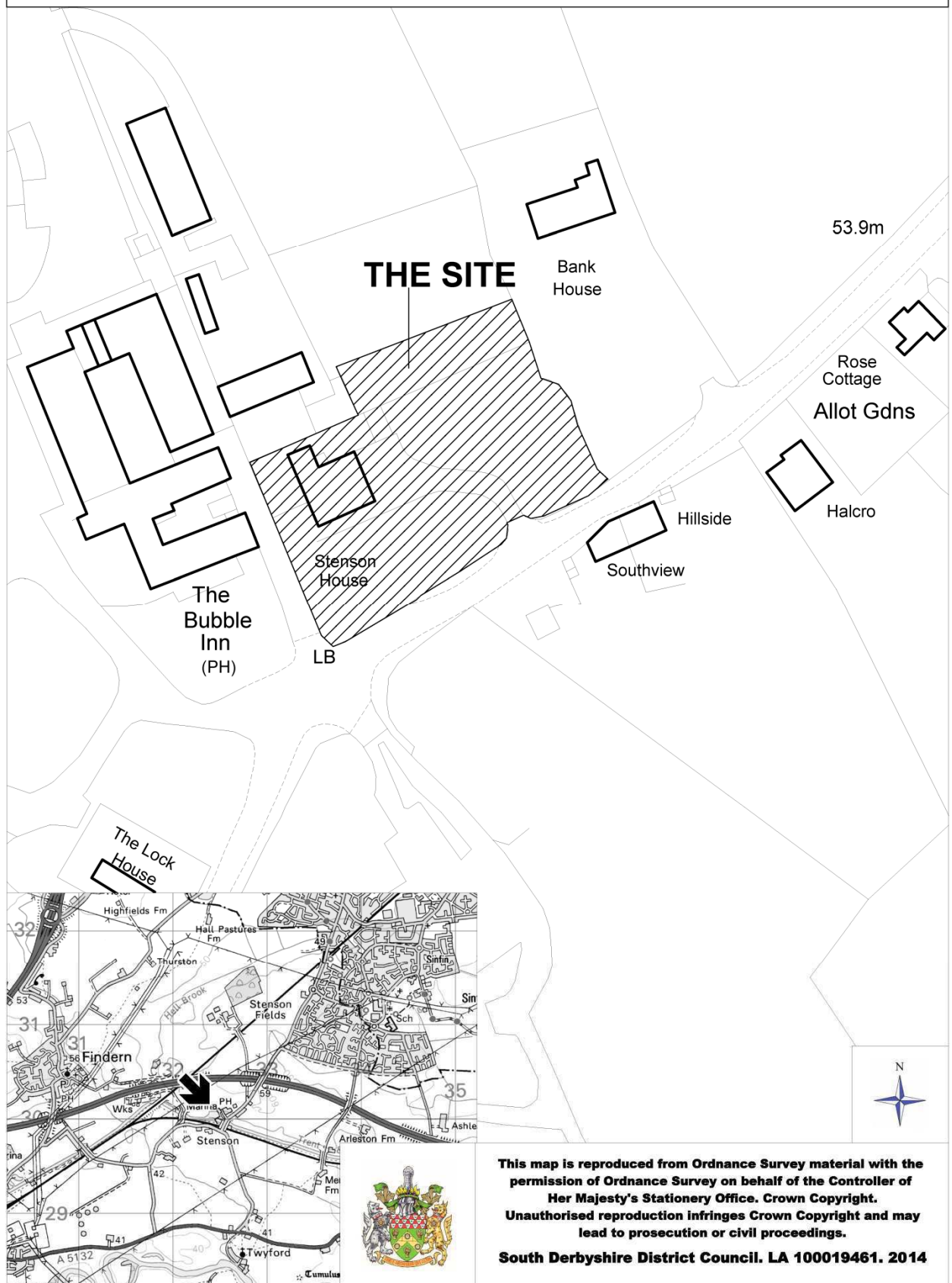
The item is presented to Committee as the applicant is Councillor Neil Atkin.

**Site Description**

The trees the subject of this notification relate to 2no. Sycamore Trees and mixed leaf overgrown hedge, located on the south Boundary adjacent to the road. A Cherry tree, 3no. Copper Beech Trees and Leylandii hedge all on the west boundary and a Cypress Tree north of the host dwelling, within the middle of the site. In addition Fruit Trees located within the orchard north east of the host dwelling. The trees are all located within the gardens of Stenson House, a 2-storey detached house which is Grade II listed and within the Trent and Mersey Canal Conservation Area.

**Proposal**

This notification is to: crown clean and prune branches (away from overhead wires) of the 2no. Sycamore trees; crown lift and formative pruning of the Cherry tree; crown lift by 4.5m, pruning and re-shaping of the canopy away from the host dwelling and Bubble Inn of the 3no. Copper Beech trees; felling and removing of the Cypress tree and several fruit trees that have died and formative pruning of other fruit trees within the orchard. The trees are not protected by a Tree preservation Order but are situated within the conservation area. Other works are specified within the notification, namely the removal of broadleaf and Leylandii hedges and dead tree stumps.



## **Applicant's supporting information**

None Provided.

## **Planning History**

None relevant.

## **Responses to Publicity**

The consultation period expires on 15<sup>th</sup> March 2018 and no comments have been received to date. Any comments received will be reported at the meeting.

## **Development Plan Policies**

The relevant policies are:

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

## **National Guidance**

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

## **Planning Considerations**

The notification procedure is a mechanism which allows the Local Planning Authority a period of time to assess the impact that would result from tree works and the main consideration should be the amenity value of the tree. In addition, there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Even if the tree's amenity value may merit an Order, the consideration must be given as to whether it would be expedient to make one and consider other factors such as, amongst other things, the health and lifespan of a tree, proximity to buildings or structures, proximity to living spaces, suitability for location, etc.

## **Planning Assessment**

The main bole of the Cypress tree is damaging a wall and has no contribution to the visual amenity of the area being located within the middle of the site and to the rear of the host dwelling, with no views from the public realm. Similarly the fruit trees which are located near to the Cypress tree also have no public views; the trees proposed for felling are dead. It is considered that the felling/pruning of the Cypress tree and fruit trees is reasonable and protecting the trees with a Tree Preservation Order would be inappropriate.

The 2no. Sycamore trees contribute to the visual amenity of the area, being located at the front of the site and directly adjacent to the Derby Road, with clear views from the public realm. The proposed crown clean and pruning of branches to prevent

damage to overhead cables is considered reasonable and necessary, the works will not damage the long term health of the trees and protecting the trees with a Tree Preservation Order is not considered necessary at this time.

The 3no. Copper Beech trees and Cherry tree all contribute to the visual amenity of the area, being located along the western boundary of the site, directly adjacent to the access road located off of Derby Road. The proposed crown lifting and pruning of trees is considered reasonable works, improving the access along the road between the host dwelling and the Bubble Inn without damaging the long term health of the trees. Therefore protecting the trees with a Tree Preservation Order is not considered necessary at this time.

The applicant sought pre-application advice, which included a site visit, from the Council's Tree Officer who advised accordingly, advice provided by the officer has been followed and therefore he has no objections to the proposed works.

### **Recommendation**

**NO OBJECTION** be raised to the proposed works subject to the following:

Informatives:

1. If this work is not carried out within two years of giving notice, a further notice is required.
2. You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

**Item**            **1.6**

**Ref. No.**        **9/2018/0225/NO**

**Applicant:**  
**James Houghton**  
**Property Services**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**James Houghton**  
**Property Services**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Proposal:**    **DEMOLITION OF BUILDINGS AND REMOVAL OF  
HARDSTANDINGS AT THE FORMER COUNCIL DEPOT  
DARKLANDS ROAD SWADLINCOTE**

**Ward:**        **SWADLINCOTE**

**Valid Date**    **22/02/2018**

**Reason for committee determination**

The item is presented to Committee as the Council is both the landowner and applicant.

**Site Description**

The site lies to the west of Darklands Road and south of Darklands Lane, close to the Civic Way roundabout adjacent to the Council Offices. The site formerly served as the Council's depot, providing for various offices, storage and workshop buildings, open-air material stores and parking and circulation areas for refuse collection vehicles, maintenance vehicles and equipment. The depot, having moved to the Boardman Industrial Estate, is now vacant. A portion of the site is also put aside as a public car park. Residential properties lie to the east and north of the aforementioned roads, with residential development sites to the north-west of the site.

**Proposal**

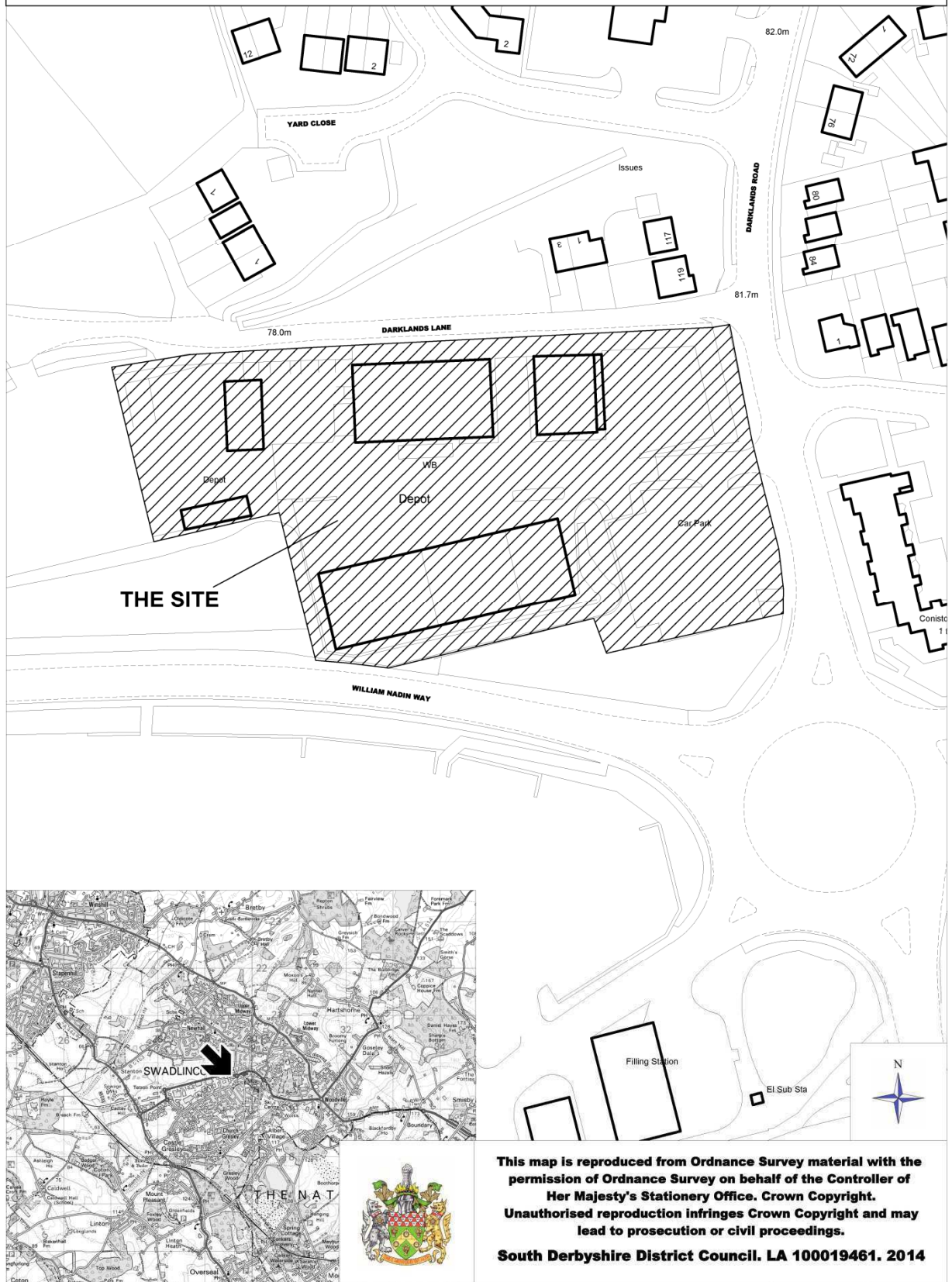
It is proposed to demolish all buildings and structures and remove hardstandings as considered necessary.

**Applicant's supporting information**

None.



9/2018/0225/NO - FORMER COUNCIL DEPOT, DARKLANDS ROAD, SWADLINCOTE  
DE11 0PQ



## **Planning History**

9/2010/1113 Outline application (all matters except access and layout reserved) for two non-food retail units, dental surgery, improvements to Darklands Lane, access, ancillary works and demolition of council depot – Approved April 2011

## **Responses to Consultations**

The County Highway Authority raises no objections in principle but recommends a condition requiring the provision of a site compound or layout so to ensure that vehicles relating to the works aren't parked on the public highway in the vicinity of the site and, as the site abuts the highway and potentially retains it, a condition requiring details of the works abutting the highway should be attached so to avoid any negative impact on the integrity of the adjacent highway.

At the time of writing this report, the consultation period remains open – expiring before the meeting itself. Any further responses received will be reported verbally with additional conditions recommended where appropriate.

## **Responses to Publicity**

No representations have been made so far, and any received within the publicity period will be reported verbally at the meeting.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S7 (Retail), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues) and INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: RTL2 (Swadlincote Town Centre Potential Redevelopment Sites)

## **National Guidance**

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

## **Planning Considerations**

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

- The principle of demolition and wider strategy for the site
- Amenity impacts
- Highway impacts

## **Planning Assessment**

### The principle of demolition and wider strategy for the site

The site forms part of the town centre redevelopment area as designated under Local Plan Part 2 (LP2) Policy RTL2, following the strategy under the Local Plan Part 1 (LP1) – in particular Policy S7. In addition, permission for the redevelopment of the site for retail purposes was granted in 2011, although that permission has expired without implementation. It should be noted that the 2011 permission also included consent for the demolition of the buildings on the site. With the proposal echoing that previously secured, and there being no material change in the strategic approach to the redevelopment of the site with it not protected for employment or similar purposes; this application would facilitate the first 'stage' of its re-use and thus is wholly acceptable, in line with the Policies LP1 and LP2.

### Amenity impacts

Whilst there are residential properties adjacent to the site, the former context of the use of the site should be noted. It is envisaged that works to demolish and clear the site would take place during normal working hours, representing an improvement on otherwise earlier starting times under its use as a depot. It is considered that any impact on amenity would be short lived and not cause undue harm, according with Policies LP1 and SD1.

### Highway impacts

Again, the works would cause a transitory impact, with materials arising from the demolition and clearance works exported accordingly via the local highway network. These impacts would likely represent a comparable or lower number of vehicular movements to the existing lawful use of the site, such that there is unlikely to be a highway capacity or safety concern under LP1 policy INF2.

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 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 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. No works shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles, laid out in accordance with scheme first submitted to

and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the period of works.

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

3. No works shall commence until details of the method to remove existing surfaces and/or buildings adjacent to the public highway shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining the integrity of the public highway.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2017/0375	Hilton	Hilton	Dismissed	Delegated
9/2017/0965	Willington	Willinton & Findern	Dismissed	Delegated



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## Appeal Decision

Site visit made on 12 February 2018

by **A Jordan BA Hons MRTPI**

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

Decision date: 1 March 2018

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**Appeal Ref: APP/F1040/W/17/3188431**

**Follyfoot Farm, Sutton Lane, Hilton, Derby, DE65 5FE**

- 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 and Mrs C Hateley against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0375, dated 5 September 2016, was refused by notice dated 4 August 2017.
  - The development proposed is demolition of existing building and erection of workshop and associated access track.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Following the refusal of the application and the submission of the appeal the Council adopted the *South Derbyshire Local Plan Part 2*. This supersedes the *South Derbyshire Local Plan 1998*. I have therefore not taken account of the policies within the superseded plan in the consideration of this appeal.
3. In addition to the appeal before me the appellant has also submitted a further appeal against a refusal of prior approval for the change of use of one of the outbuildings on site to residential use<sup>1</sup>. Such an application presupposes that the appellant holds the view that the building is capable of conversion to residential use. I have also taken this into account in the consideration of this appeal.

### Main Issue

4. The main issue for the appeal is whether the proposal would provide an appropriate form of development in a rural location.

### Reasons

5. Policy E7 of the *South Derbyshire Local Plan 2016* supports development proposals which diversify the range of employment activities outside settlement boundaries to meet the social and economic needs of rural communities, where amongst other things, the enterprise is supported by a sound business case. The policy seeks to balance any adverse effects of new development in the countryside with the economic benefits that suitable employment development can bring. This is broadly in line with guidance in the *National Planning Policy*

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<sup>1</sup> APP/F1040/W/18/3194229



*Framework* (the Framework) which seeks to support the growth and expansion of all types of business and enterprise in rural areas as well as recognising the intrinsic character and beauty of the countryside. The Framework also seeks to locate significant new development in accessible locations and to encourage the reuse of existing resources, including buildings.

6. Follyfoot Farm comprises a residential dwelling with a collection of outbuildings to the rear. Although the property was formerly in use as a farm, the buildings are not currently in agricultural use with at least one being used in conjunction with the appellant's business, which produces props for film and television. Therefore, other than the benefits of proximity to the appellant's home, the nature of the business is not such that it is necessary for it to be carried out in a rural location.
7. The existing use has never been subject to planning permission, and although both the appellant and the Council appear to agree that a business has been carried out from the appellant's home for a number of years, they do not agree on whether the existing use on site is lawful. The appeal relates to the erection of a workshop in order to facilitate the expansion of the existing business. The site lies to the west of the shed currently used by the appellant and so does not include the existing use. As such, the continued use of the existing premises is therefore not a matter before me.
8. I noted on site that the existing buildings on site were relatively large, and that their height and the form of the available openings reflecting their previous use for animal housing or agricultural storage. They were therefore agricultural in appearance, and sat comfortably in the rural landscape. The proposed workshop would occupy the footprint of the existing farm building to the rear, but would be taller at both eaves level and to the apex of the roof, which would result in a significantly larger structure than the existing low shed. It would also have a number of windows on both side elevations and large double doors providing access to the rear. As a result it would not have the outward appearance of an agricultural building.
9. Whilst the building would not be apparent from the public highway, it would be visible when within the appeal site, and across open countryside to the rear, where due to its height it would be evident above the existing hedgerow. In these views the industrial form of the unit would appear intrusive and would erode the rural character of the wider area. I have considered whether this identified harm to the character and appearance of the site could be mitigated or avoided. Although supplementary planting could reduce wider views into the site, due to the height of the building it would not entirely screen it. I therefore conclude that the provision of an industrial unit in the location proposed would have a detrimental effect on the character and appearance of the countryside in this location.
10. The proposal would facilitate the operation of the appellant's business on site and would also improve security measures. I am advised that the business would fall within the B1 use class and that additional space is required to house a milling machine, a lathe, a barn saw and welding equipment as well as office and display space. I can appreciate that if the business were to expand it would be likely to require a bigger building than the shed I viewed on site, which, I was advised, was the only building on site which was being used in conjunction with the business, as no others were suitable. However, taking



into account the size and height of the other existing structures, I find no convincing case as to why the needs of the business could not be met if necessary by conversion and adaptation of one, or all of these buildings, which lie closer to the main farmhouse and could potentially be less visually intrusive.

11. Furthermore, the business in question is located on site not because it relates to a rural enterprise, but because it is convenient for the appellant, who lives there. In the absence of any substantive details as to the scale of the business in terms of its turnover or number of employees, I have no basis for concluding that the business has a good prospect of successfully expanding and therefore occupying the space proposed. Neither can I conclude that the business would continue to need to operate from the site in the longer term. I therefore have limited basis for concluding that the proposal would provide an economic benefit to the rural community.
12. This leads me to the view that the proposal would harm the character and appearance of the countryside and that this would not be justified by the need to facilitate sustainable employment activity. Of the policies put to me by the Council I consider policies E7 and BNE4 to be most relevant and find that the proposal would conflict with the requirement in rural areas to minimise visual intrusion and the impact on the locality, and to protect and enhance the character and quality of South Derbyshire's landscape through the careful design and sensitive implementation of new development. It would also conflict with guidance in the Framework, which has similar aims.
13. I take into account residents' concerns in relation to highway safety and potential noise from the proposal. However, as I have found the proposal to be unacceptable in any case, these matters do not alter my conclusions. Accordingly, for the reasons outlined above, and having regard to all other matters raised, the appeal is dismissed.

*Anne Jordan*

INSPECTOR



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## Appeal Decision

Site visit made on 6 February 2018

by **Nigel Harrison BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> February 2018

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**Appeal Ref: APP/F1040/D/18/3193760**

**79 Twyford Road, Willington, Derby, DE65 6DE**

- 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 Carl Silvester against the decision of South Derbyshire District Council.
  - The application Ref: 9/2017/0965 dated 5 September 2017, was refused by notice dated 31 October 2017.
  - The development proposed is a detached garage.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider the one main issue in this case is the effect of the proposed garage on the character and appearance of the street scene in Twyford Road and the character and appearance of the surrounding area.

### Reasons

3. It is proposed to erect a detached single garage to the front the property, close to the highway boundary. It would measure 3.0m x 6m high and would be 3.5 high to the ridge. Materials would match those of the existing dwelling.
4. Nos 79 is one of two pairs of similar semi-detached houses (with a detached house beyond) which follow a uniform building line of the north side of Twyford Road. The houses are set well back from the road, with the frontages dominated by hard surfaced areas used for parking. These frontage areas contain little in the way of vegetation or other screening and are very open in character. I noted that there were no garages or other buildings in the front garden areas of the properties on both sides of this section of the road.
5. Consequently, due to its prominent location on the frontage, the proposed garage would appear as an alien and uncharacteristic feature in the street scene. This would be to the detriment of the open, spacious appearance of the frontage areas and wholly at odds with what is typical for the area.
6. Policy BN1 of the *South Derbyshire Local Plan Part 1 (LP1)*, adopted June 2016, and Policy H27 of the *South Derbyshire Local Plan Part 2 (LP2)*, adopted November 2017 seek to achieve a high standard of design, and require extensions and other householder development not to be unduly detrimental to

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<https://www.gov.uk/planning-inspectorate>

the general character and appearance of the area. In my view the appeal proposal fails to achieve those objectives.

7. I note that no objections have been made by the Parish Council or any local residents. However, this does not overcome my concerns regarding the harmful effect of the proposal on the street scene and the area generally.
8. The appellant has referred to a garage that has been approved by the Council at 22 Milton Road, Repton<sup>1</sup>. That garage has been built and I took the opportunity to view it at my site visit. I accept that some comparisons can be drawn in that the garage is also forward of the dwelling and close to the highway. However, the location is some distance away in an area with a totally different character. The dwellings in that locality are of varied types and sizes and do not follow a regular building line. Furthermore, the front gardens feature mature planting and are much less open in character. Consequently the Council's decision in that case has not influenced my reasoning. In any event, each application and appeal falls to be assessed on its own merits, taking into account the particular local circumstances and other considerations.
9. Overall, I find that the proposed garage would materially harm the street scene in Twyford Road and the character and appearance of the surrounding area. It would conflict with LP1 Policy BE1 and LP2 Policy H27.
10. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should fail.

*Nigel Harrison*

INSPECTOR

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<sup>1</sup> Ref: 9/2016/0486

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>20<sup>th</sup> MARCH 2018</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>RICHARD RODGERS (01283) 595744</b> <a href="mailto:richard.rodgers@south-derbys.gov.uk">richard.rodgers@south-derbys.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>PROPOSED TREE PRESERVATION ORDER 478 – LAND OFF SWAN HILL, MICKLEOVER</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ETWALL</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

- 1.1 That this tree preservation order should be modified to omit the area outside the main woodland and then confirmed as such.

## **2.0 Purpose of Report**

- 2.1 To consider confirmation of this tree preservation order (TPO).

## **3.0 Detail**

- 3.1 This tree preservation order was made on 6<sup>th</sup> October 2017 in respect of a wooded copse /woodland featuring a variety of trees including willow, birch and hazel. The trees were planted with the intention of screening the adjacent housing estate in an attempt to soften public views of the development where seen from the south. The feature is relatively young at just less than 20 years old.
- 3.2 The TPO was made following contact from a member of the public concerned that trees were being removed (or had the potential to be removed) without control.
- 3.3 A number of comments relating to the proposed Order have been received and are summarised as:
  - The order should be amended to exclude the former access strip, that at the bottom of the bund and most immediate to the houses; this land limited in regards tree numbers, more overgrown with brambles etc. The principle of a TPO here though is a public amenity well worth safeguarding.
  - Order should be amended to exclude our land, that that we have maintained (through the lack of others) for the last 15 years using our own time, effort and expense.



- Why is the track at the bottom of the bund included? there are no trees there so nothing to preserve.
- Who owns the woodland? Whilst in general support of the order, some basic maintenance of the trees is required, even if just to lessen the potential to damage adjacent property.
- The trees are becoming quite tall and blocking sunlight from our homes/gardens. Our preference is that the trees are retained albeit in a managed form that keeps their height in check. We would trust the TPO would not stop this from happening or the landowner use it as an excuse not to carry out necessary work, more so with some trees failing in the area of late.
- Are the trees the appropriate species? They are growing so tall with no obvious slowing in their growth rate. Has any sort of risk assessment been carried out on the trees (in terms of potential to fail) given their situation/condition?
- Why has the trees amenity been assessed as high, the land to the opposite side of the bund now so overgrown, it effectively 'screens' the 'planned for screen'? Our amenity has been compromised with local groups of youths congregating here and carrying out anti-social activities.
- The order presumably does not relate to self-set shrubs? Equally, how do we identify specific trees we may wish to prune (if we were to apply) given the dense nature of the woodland and the third party ownership of such – i.e. trespass concern.
- We have looked after the area (part of the TPO) for the last 15 years, at our own expense through adverse possession. Putting a TPO on land looked after by one party but owned by another will cause confusion and possibly delays if any works are required.
- You want the TPO in place to protect the trees from recent development; what is that development?
- We have been maintaining shrubs and bushes in the area now covered by the TPO; can we still do so, they in our opinion not being trees? What do you consider to be a tree?
- Who should make an application for necessary works; us or the landowner? If it is the landowner it is unlikely to bear fruit due to their limited interest in the land and lack of incentive to assist.
- Is an application required for works deemed necessary by way of Health & Safety?
- Why is the word woodland used when it is clearly not ancient or a woodland – that is misleading.
- The wording used to justify the order is a misrepresentation. The land has been neglected by those responsible for its maintenance and management.

Only once in 15 years have you organised a one day visit to maintain the access strip. There has to be a reason why you have shown no interest in the land for 15 years and now fancifully dress it up as something that it is not.

- We are the only known land owners covered by the Order such others (neighbours) commitment and interest is as passive onlookers only.

3.4 In answer to the comments made, officers have the following response:

- The trees have been assessed by the Council's Tree Officer where he believes the feature best fits a woodland description. Having visited the site recently he is of the opinion some thinning and coppicing work (as a minimum) could be carried out here without detriment to the woodland screening qualities. It is preferred however that this be done in a controlled fashion. This could be done by way of a series of approved (by way of applications) long-term tree management plans; that in turn would reduce the administrative burden on any future applicant. He is also of the opinion that the work should be done fairly soon before the trees become too tall.
- Protecting the trees by way of a TPO does not prevent appropriate work being applied for and approved. There are also some exemptions in terms of express consent, where Health & Safety supersedes; or the cutting of deadwood etc.
- The land is not owned by the Council such maintenance of it falls to the land owner. In the main the site is owned by Redrow Homes and Taylor Wimpey Homes although two small parts are owned by local residents. It is the responsibility of the land owner to make the trees safe. Applications can be made however on behalf of the land owner although separate consent would be required from them also.
- The access strip to the immediate south-west of the curtilage of the adjoining houses and between the trees could be removed from the order (by way of modification) without undue detriment. It may be best it be kept open however (i.e. not fenced off) to allow maintenance access, as was originally planned.
- DCLG TPO guidance advises that authorities may consider taking into account other factors such as importance to nature conservation. The Council's Tree Officer has opined that the feature certainly contributes to local wildlife habitats in addition to its primary use as a vegetative screen.
- A tree has been described as a woody perennial plant typically having a single stem or trunk growing to a considerable height and bearing some lateral branches at some distance from the ground. The Council would be willing to advise on this further should the need arise.

#### **4.0 Planning Assessment**

- 4.1 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order in accordance with advice set out in the Governments PPG document.

## **5.0 Conclusions**

5.1 It is expedient in the interests of amenity to preserve.

## **6.0 Financial Implications**

6.1 None.

## **7.0 Corporate Implications**

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

## **8.0 Community Implications**

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

## **9.0 Background Information**

- a. 6 October 2017 Tree Preservation Order
- b. Various letters from local residents