

Report of the Strategic Director (Service Delivery)

[Section 1: Planning Applications](#)

[Section 2: Appeals](#)

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2019/1288	1.1	Ticknall	Repton	6
DMPA/2020/0828	1.2	Repton	Repton	16
DMPA/2020/1211	1.3	Church Gresley	Church Gresley	25
DMPA/2021/0145	1.4	Melbourne	Melbourne	28
DMOT/2021/0177	1.5	Grangewood	Seals	31

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

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

Glossary of terms

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

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

Item No. 1.1

30/03/2021

Ref. No. DMPA/2019/1288

Valid date: 07/11/2019

Applicant: P Bishop

Agent: Craig Barks

Proposal: The erection of a rural workers dwelling and associated works to support the existing kennels and cattery at Ash Farm Kennels, Ingleby Lane, Ticknall, Derby, DE73 7HW

Ward: Repton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Churchill as it is considered the Committee should debate the issues in the case which are finely balanced.

Site Description

The site is located adjacent to an existing farmstead (Ash Farm), on the outskirts of Ingleby and in the open countryside. The site is located on a gradient which slopes down towards the highway but is largely obscured from views by existing trees and hedgerows. Access to the dwelling would be through the existing farm access, which would serve the kennels and provide a connection to the proposed dwelling.

The proposal

Permission is sought for the erection of a rural workers dwelling to serve the manager of the dog kennels and cattery business at the site. The additional dwelling is proposed on the basis that it would be to support the kennels business.

Applicant's supporting information

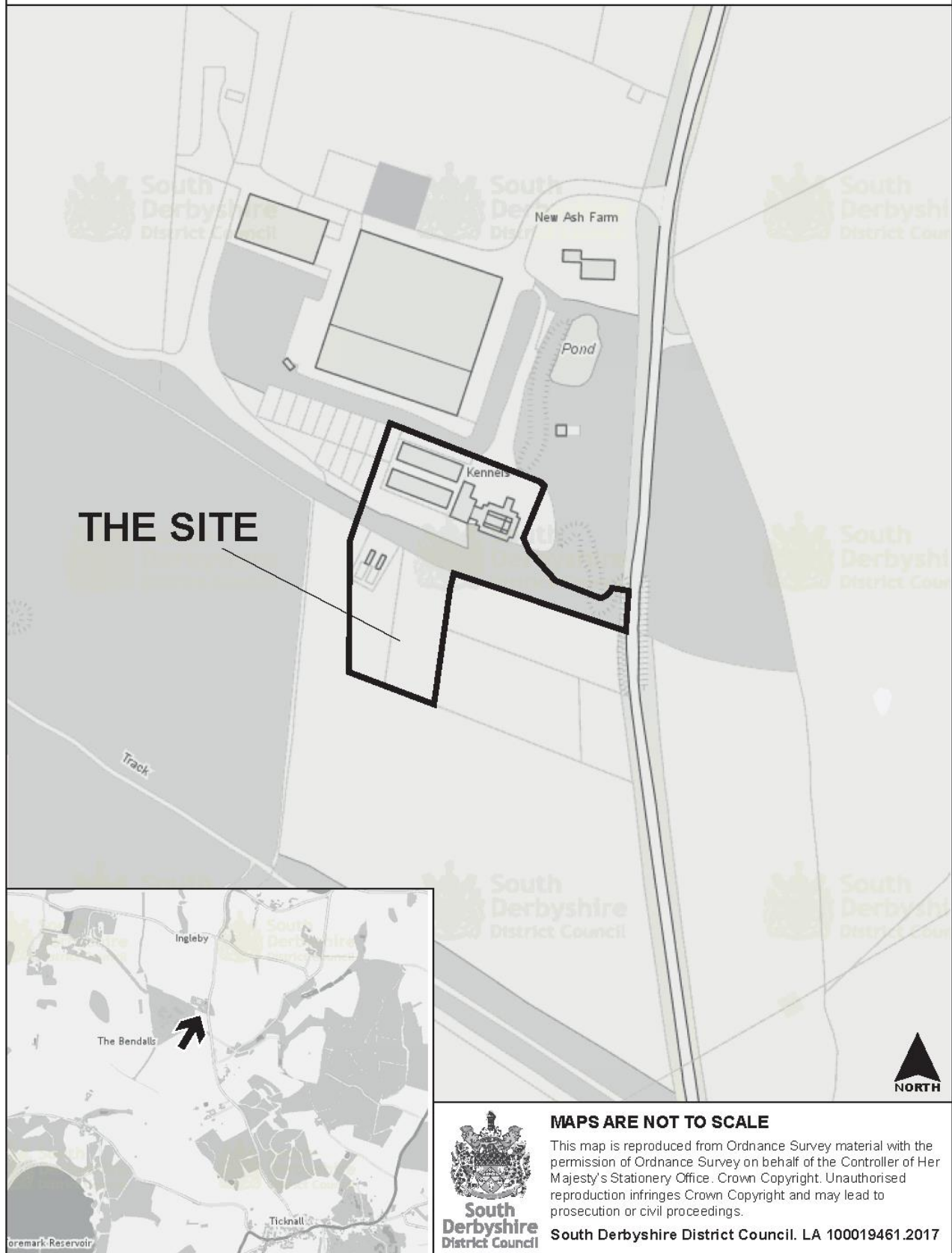
Planning Statement and Justification set out that the kennels has been expanded since it began in 2006. The farm is owned by the Church Commissioners, of which the landlord is supportive of the proposal and is operated by the applicant's family on a historical basis. A freehold is currently being negotiated for the applicant in terms of ownership of the kennels and cattery, so to secure the future business which is currently on tenanted land. The farm is run by the applicant's son and the kennels are operated by the applicant. Consent is now sought for a permanent rural workers dwelling to serve the established kennels so that the two rural businesses can continue separately as there are no staff welfare facilities at the existing kennels.

The applicant has explored various alternative options in order to facilitate further accommodation on the farm. The farmhouse is currently occupied by the applicant with the applicant's son commuting each day to the farm, of which this is unsustainable and leaves one person with responsibility for both businesses. No alternative properties are available in the area and it is essential that both workers have sight and sound of the business. Further plans are to create a hydrotherapy unit to serve clients in the future which would incur another full time position.

The kennels business employs two full-time people and two apprentices, and part-time and casual labour and is overseen by the manager. There are approximately 25% of kennels housing animals which require specific medical care. It is essential that someone is on site 24 hours a day to ensure the welfare of the animals and that the best care is provided. The site needs to be monitored for theft of the animals and this needs to be carried out at night to make sure that intruders do not enter the site. The value of dogs has increased significantly since 2004 and at least one inspection is carried out after 9pm in accordance with the license and for the manager to live close to the kennels.

The proposed dwelling is considered essential to allow the farm diversification business to continue to

DMPA/2019/1288 - Ash Farm Kennels, Ingleby Lane, Ticknall, Derby DE73 7HW



operate. In accordance with the *Embleton* case, it would not be necessary for financial details to be submitted under paragraph 79 of the National Planning Policy Framework (NPPF). Financial details have been provided for the last three years and the business has expanded to create five members of staff. However, case law stipulates that there is no requirement to define the financial sustainability of the business - just the established need. The cost of the build would be offset by the sale of the business investment property without any loan.

This proposal seeks to achieve planning permission for the erection of a rural business dwelling and alterations to the access at Ash Farm. The proposed dwelling will solely serve Ash Tree Boarding Kennels and Cattery and approval of this scheme will facilitate the succession and ongoing viability of two rural businesses. A sensitive design has been prepared by the Architects which provides a functional dwelling to serve as the on-site manager and key worker accommodation. Part of this proposed dwelling also serves as a staff facilities and welfare area.

Two cases from elsewhere in the country are also advanced in support of the proposal. These are discussed below.

Relevant planning history

9/2001/1014: Erection of cattle housing – Approved with conditions.

9/2004/0751: The erection of a reception/storage area for 36 kennels for boarding – Approved with conditions.

9/2007/1434: Erection of a building as a cattery – Approved with conditions.

9/2014/0900: Prior notification for the erection of a steel portal frame agricultural building – Prior Approval not required.

9/2018/1244: The erection of a rural workers dwelling and associated works to support the existing dog kennels – Withdrawn.

Responses to consultations and publicity

There have been no objections raised by the Environmental Health Officer subject to the proposed dwelling being tied to the existing kennels business and that a pre-commencement condition to be attached if permission were to be granted for details of mitigating against contamination and ground gas ingress.

The County Highway Authority has concerns that the proposed access would be narrow. However, amended plans submitted (and were submitted as part of a previous application ref. 9/2018/1244) are considered suitable subject to the incorporation of planning conditions for visibility splays to be provided prior to the first use of the proposed dwelling. Subject to this layout, the County Highway Authority consider that a safe and suitable access could be accommodated.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport), INF8 (National Forest).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H25 (Rural Workers Dwellings) and BNE5 (Development in the Countryside).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of development;
- Essential need and business justification;
- Visual impact; and
- Highway safety matters.

Planning assessment

Principle of development

The site is located outside of a settlement boundary and would represent housing development in the open countryside. Whilst the principle of the erection of an isolated dwelling in the open countryside would be considered unsuitable, there is scope within policies H25 and BNE5 of the Local Plan, as well as paragraph 79 of the NPPF, for the erection of a rural workers dwelling where it has been demonstrated to be essential to a rural based business and would not have a harmful visual impact on the character of the surrounding countryside.

In order for the principle of the development to be deemed acceptable under policy H25, it would be necessary to demonstrate that there is an established essential (functional) need for a worker to reside at the site in order for the business to operate. It would be necessary to demonstrate that the business and enterprise that the proposed dwelling would support is existing and established and would be likely to remain sustainable. This is to ensure that the business that underpins the need for the proposed dwelling would have sufficient longevity - if the rural based business were to fail, this would result in a vacant, isolated dwelling within the countryside. In addition, it would also be necessary to demonstrate that there would be no prospect of meeting the need by utilising an existing dwelling in the locality.

Essential need and business justification

Essential Need: Policy H25 i) of the Local Plan stipulates that there would need to be an “established existing essential need for an additional worker’s dwelling to support a rural based activity” and the proposed development would need to demonstrate that the rural business would be dependent on the erection of a new dwelling to provide on site provision.

The submitted justification in respect of essential need centres on animal welfare and the need to be on site twenty four hours a day to administer medicines, carry out checks on the animals and be able to respond to issues with security threats. A key aspect of the application relates to the need for looking after a large number of sick animals at the kennels.

There is no legislative welfare requirement for permanent on-site accommodation to be within sight and sound of the dog kennel or cattery and the monitoring of the animals could be carried out without the need for a permanent dwelling on site. However, the need for animals to be protected from pain, suffering, injury and disease would provide additional challenges for a worker who is remote from the kennels site. The application suggests that 25% of the kennels house sick animals and that it would be

an everyday occurrence that an animal would require full time care at the facility. Therefore, if there are 25% of kennelled animals that are suffering from pain, injury and disease, their welfare could not be protected without out-of-hours attention, and this would require a dwelling on site. On the basis of this, the kennels business would require a twenty four hour presence on the site and a permanent dwelling and would fully accord with part i) of policy H25 of the Local Plan.

Financial sustainability: Policy H25 ii) of the Local Plan stipulates that “the rural-based activity has been established, is economically sustainable and has the prospect of remaining so.” It would be necessary to demonstrate that the proposed business is economically sustainable with sufficient longevity to support the building of the proposed dwelling and that it would provide a livelihood for the worker who would be living in the proposed dwelling.

A full business case and details of the financial turnover have been formally assessed by the Agricultural Consultant, of which it is accepted that the business is generally financially viable and sustainable and capable of covering the costs of the proposed dwelling and providing a full time living for the proposed occupants. The business was started back in 2004 as a rural diversification project and has continued to grow since then. This demonstrates a longevity to the business and a continued expansion that would support the business as being well established and financially sustainable. On the basis of this, the proposed development would accord with part ii) of policy H25 of the Local Plan.

Existing dwellings within the locality: Policy H25 iii) of the Local Plan stipulates that “the essential need cannot be fulfilled by an existing dwelling in the locality”. It is noted that there is an existing farmhouse on site where the manager (applicant) currently resides and oversees night time checks at the kennels this way. The applicant’s son currently runs the farm and commutes to the site for work. However, this does identify a residential dwelling in the immediate locality and it is currently under the control of the applicant.

The proposed development is sought for the applicant to move into the proposed dwelling to oversee the kennels business and for the applicant’s son to move into the farmhouse to oversee the farming operation. It is the intention to split the farming and kennels business in the future, with the existing farmhouse to oversee the existing farming business and the proposed dwelling to support the existing kennels business. A letter from Savills, who represent the Church Commissioners for England and who are the owners of the site, states that the land would be sold to the applicant and that “it would be impossible for the tenant farmer residing in Ash Farmhouse to have any association with the kennels, as these properties will be within separate tenure”.

Whilst the proposed development would not strictly accord with part iii) of policy H25 in that there is currently an existing dwelling at the site that is owned by the applicant and could serve as an on-site residence for the kennels business, the letter from Savills representing the land owners clearly demonstrates a potential change in circumstances in severing the kennels business from the farm and farmhouse. Whilst the legal transfer has not yet taken place, the landowners have confirmed that on completion of the proposed dwelling, the kennels will be severed from the farm business but that this cannot take place until the proposed dwelling has been completed.

This presents a finely balanced issue in that the proposed dwelling could not achieve full compliance with part iii) of policy H25 until the land transfer has occurred. However, this could not happen until the dwelling is completed and the land and development are parcelled off together. This presents a “catch 22” scenario for the applicant of which there is a clear intention from the landowners for the legal transfer of the land to be carried out. This, in combination with the essential need required by the number of sick animals being kept overnight at the kennels and the long, established nature of the kennels business point towards the proposed development securing the long term viability of the existing rural based business. The proposal is underpinned by a sound business case and would therefore, comply with policies E7, H25 i) and ii) and BNE5 of the Local Plan.

Visual impact

Policy BNE1 of the Local Plan ensures that new development is well designed and reflect local

characteristics. The proposed dwelling would be single storey in height and would be located to the south of the site. Amended plans have been submitted which have reduced the proposed floor area of the building following concerns that have been raised regarding the size of the proposed dwelling by the Agricultural Consultant. The position of the proposed dwelling would be located outside of the existing envelope of the built-up area of the existing kennels and agricultural buildings. There is a significant gradient at the site which rises up from the highway up to the site of around 2m in height difference. The site is heavily screened by tree coverage to the west, south and east and given the height of the proposed dwelling in combination with the reduction in proposed floor area; the proposed dwelling would not have a harmful visual impact in its own right. For these reasons, the proposed development would accord with the principles of policies BNE1, H25 and BNE5 of the Local Plan.

Highway safety matters

Concerns were initially raised by the County Highway Authority in regard to the creation of a new access to serve the proposed dwelling at a point where there would be substandard visibility and with a narrow driveway for passing vehicles. However, amended plans have been submitted which show the existing access being utilised with sufficient width for two cars to pass one another and greater visibility splays at the point of the access. The County Highway Authority do not have any objections to the amended plan subject to conditions that the development shall be laid out in accordance with the submitted plans. The proposed development would therefore, accord with the principles of policy INF2 of the Local Plan.

The Agricultural Consultant stated concerns over the kennels business using the existing farm access and ambiguities for the two businesses in the future. However, given that there is sufficient space within the access and driveway for two cars to pass one another this would not raise any issues regarding highway safety and the kennels business and farm business could continue to use the access albeit severed from one another in the future.

Comparable cases

Two appeals are advanced in support of the proposal. The first is known as Willow Stables. Here, the appellant was already living in a caravan at the site that benefited from a lawful development certificate. This formed the only residential element at the site to support the business and provide an overnight presence at the site. The proposed dwelling replaced the longstanding caravan at a similar cost to replacing the caravan. This differs from the application site significantly as this appeal sought to replace an existing, long standing residential caravan with a dwelling as opposed to creating a new dwelling.

The second relates to a site in Berkshire. This centred around an application for separate residential accommodation of a flat above garage space as a way of monitoring the kennels business at night so that the manager did not have to live in the existing dwelling at the site. Whilst the full details have not been submitted, this does present various differences between the appeal and the current application. The application does not seek a small area of ancillary residential accommodation, of which staff welfare areas could be incorporated into the existing buildings. The current application seeks consent for the erection of a new, permanent dwelling to support the business of which there is currently a sizeable residential building at the site.

Summary

Irrespective of the submitted appeals, the proposed rural workers dwelling would be supported by a strong essential need to provide twenty four hour monitoring of the animals on site of the existing kennels business. The business has been established and the submitted financial records demonstrates that it is an established business with financial longevity. The proposed dwelling would have a minimal wider visual impact and whilst the proposed development could not ensure full compliance with part iii) of policy H25 until the dwelling is completed and the land transferred from the existing farm and farmhouse, the proposed development would ensure the long term viability of an existing rural business and would accord with the principles of policies H1, SDT1, H25 i) and ii), E7 and BNE5 of the Local Plan.

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

Recommendation

Approve subject to conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. AFI-MMA-Z1-ZZ-DR-A-01001 Rev P3, AFI-MMA-Z1-ZZ-DR-A-02003 Rev P1, AFI-MMA-Z1-ZZ-DR-A-02004 Rev P1 and AFI-MMA-Z1-ZZ-DR-A-01005 Rev P1; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working, or last working at Ash Farm Kennels (as defined in Section 336 of the Town and Country Planning Act 1990, as amended, or any Act revoking and re-enacting that Act, with or without modification) or a widow or widower or surviving civil partner of such a person and to any resident dependants.

Reason: To reserve suitable residential accommodation for persons employed locally in agriculture, in the interests of strictly limiting the creation of dwellings in the countryside in line with the Development Plan.

4.
 - a) No development shall commence until a scheme to identify and control any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 of the Council Guidance on submitting planning applications for land that may be contaminated (herein referred to as the Guidance), unless the Local Planning Authority dispenses with any such requirement specifically and in writing.
 - b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.
 - c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.
 - d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

5. Prior to the installation of any drainage works and services, details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the

finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions.

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

Reason: To protect the visual character of the area.

7. Prior to their incorporation in to the building hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The [eaves, verges, cills and lintels] shall be constructed in accordance with the approved drawings.

Reason: To protect the visual character of the area.

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

Reason: To protect the visual character of the area.

9. Prior to the first occupation of the new dwelling hereby permitted, the new access shall be formed to Ingleby Lane. The access shall have a minimum width of 5.0m, be surfaces in a solid bound material and be provided with visibility sightlines of 2.4m x 166m in the southerly direction and 2.4m x 201m to the north. Notwithstanding the submitted, revised drawing, the sightline to the north shall be provided at a tangent to the nearside carriageway edge of Ingleby Lane, The area forward of the sightlines shall be cleared and maintained throughout the life of the development free of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interest of highway safety.

10. Prior to the new access being taken into use, a sightline of 166m to provide forward visibility for a driver waiting to turn right into the site shall be provided at the access. The area forward of t sightline shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge. For the avoidance of doubt, this will involve the removal/cutting back of foliage in the verge on the eastern side of Ingleby Lane.

Reason: In the interest of highway safety.

11. The gradient of the access shall not exceed 1:20 for the first 5m into the site from the highway boundary.

Reason: In the interest of highway safety.

12. Prior to the first occupation of the new dwelling, space shall be provided within the site curtilage for the parking and turning of two vehicles associated with the new dwelling. Notwithstanding the submitted drawing, each space shall measure at least 2.5m x 5.5m with a minimum 6m behind provided clear for manoeuvring. The space shall be maintained free of any impediment to its designated use for the lifetime of the development.

Reason: In the interest of highway safety.

13. Prior to the first occupation of the new dwelling, space shall be provided within the site curtilage for the parking and manoeuvring of vehicles associated with the kennel business. The space shall be laid out in accordance with a scheme first submitted to and approved in writing by the

Local Planning Authority and maintained throughout the lifetime of the development free of any impediment to its designated use.

Reason: In the interest of highway safety.

14. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected without the permission of the Local Planning Authority pursuant to an application made in that regard.

Reason: To protect the amenity of local residents by way of overlooking and the visual character of the area.

15. Prior to the occupation of the dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure no net loss of biodiversity and in the interest of the character and appearance of the surrounding area.

16. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.

Reason: In the interest of highway safety.

17. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

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

Informatives:

- a. 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 & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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

Item No. 1.2

Ref. No. [DMPA/2020/0828](#)

Valid date: 15/09/2020

Applicant: Griffiths

Agent: Daniel Evans

Proposal: The erection of a dwelling on Land to the rear of 24 High Street, Repton, Derby, DE65 6PB

Ward: Repton

Reason for committee determination

The application has been called in by Councillor Churchill as it is considered that the Committee should debate the issues in this case which are very finely balanced.

Site Description

The application site is situated within Repton village and is currently a vacant site having previously been part of the garden of The Lodge, Mitre Drive - formerly known as 24 High Street. The site is glimpsed from High Street and is a sloping site, Mitre Drive being higher than High Street. There are a number of trees on the site but it is predominantly laid to grass with vehicular access from Mitre Drive where the site is at its narrowest passing between the outbuildings of The Lodge and 18 The Pastures. The remaining site is roughly square and is bound by no 26 High Street to the north-east, 16 and 18 The Pastures to the south-east and The Priory (Repton School) to the north-west.

The proposal

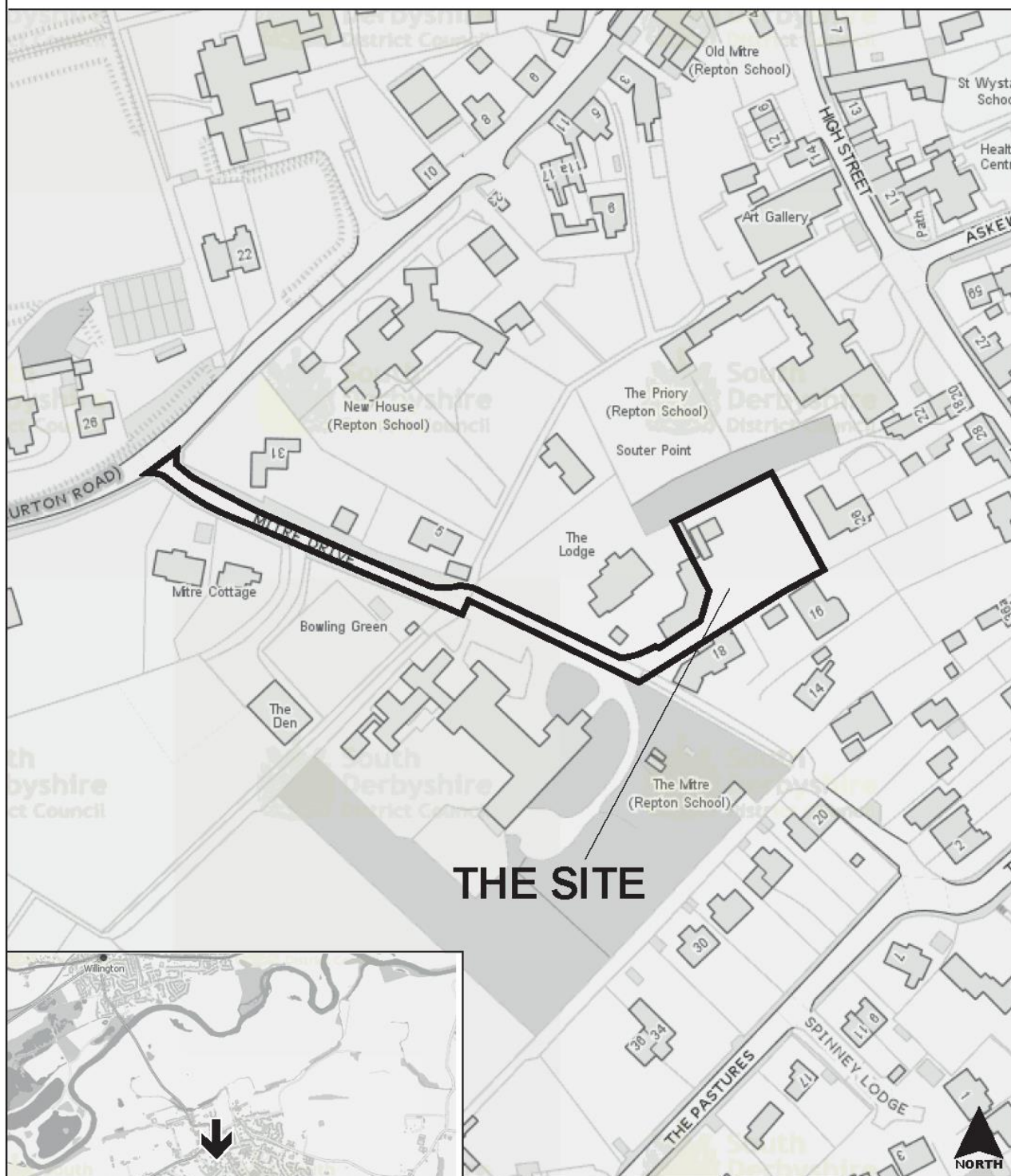
Full planning permission is sought for a modern detached dwelling on the site with access from Mitre Drive. This is a fresh application for a dwelling on this site for which outline permission has previously been granted. The design of the scheme is very modern in character and can be described crudely as a box laid on top of an L shaped box partially sunk into the site by making use of the terrain and is located in the north-east corner of the site. The dwelling would incorporate generous living accommodation on the ground and first floor including open plan living but also a gym, cinema and snug/library as well as a three bay garage, utility and WC. On the first floor are four bedrooms and four bathrooms, a home office as well as a first floor living area. In addition, a roof terrace is provided on the south eastern end of the ground floor.

Applicant's supporting information

The [Design, Access and Heritage Statement](#) sets out the concept for the new dwelling seeking to work with the landscape and existing trees drawing character from them but also embedding the architecture into the terrain and using natural materials to help weather the building into the landscape. The building is orientated to create a ground floor living area that frames the views of the existing trees on the site and creates an enclosed garden with stone walls on two sides reminiscent of Repton Village walled garden. The document cites the rich architectural history on which the design has been inspired to create a modern contemporary property. Analysing the site's constraints and its impact on the conservation area has led to the layout, location and architectural style that creates an attractive proposal befitting the high quality of Repton village and moulds its form to best suit neighbouring properties whilst using materials that will help absorb the building into the landscape and history of the area.

An [Arboricultural Report and Method Statement](#) provides the methods of protection and pruning requirements for retained trees at the site. This statement is supported by an updated Tree Survey Plan and is accompanied by an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP). It concludes that the removal of a small number of the young trees is not significant to the

**DMPA/2020/0828 - Land to the rear of 24 High Street, Repton, Derby
DE65 6PB**



**South
Derbyshire
District Council**

MAPS ARE NOT TO SCALE

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

South Derbyshire District Council. LA 100019461.2017

amenity value of the site and allows adequate protection of other mature trees making the construction of the new dwelling very feasible.

Relevant planning history

9/2018/0605: Approval of reserved matters for layout, scale, appearance & landscaping - Pending.

9/2017/0979: Proposed temporary accommodation in the form of a mobile home site cabin and containers - Approved 13/11/2017.

9/2015/0436: Demolition of outbuilding and erection of a dwelling with access via existing residential access - Approved 20/07/2015.

9/2015/0435: Demolition of existing outbuildings and garage and erection of single storey extension and detached garage – Approved 20/07/2015.

9/2014/0935: The felling of a pine tree due to limb failure – No objection November 2014.

9/2013/0847: Outline application (all matters except for access to be reserved) for the erection of a new dwelling - Withdrawn.

Responses to consultations and publicity

The County Highway Authority has no objection to the principle of a new dwelling being erected at this site. The submitted drawings illustrate an adequate access to Mitre Drive along with adequate parking and turning within the site. Conditions relating to storage of plant and materials; modification of access prior to occupation; space for parking and manoeuvring within the site; are recommended.

The Development Control Archaeologist note that the site is within the medieval core of settlement at Repton (Extensive Urban Survey Component 6), most probably within a backplot area associated with houses along the High Street frontage. Medieval backplots were associated with domestic activity, agriculture and small-scale industrial activity, and often produce archaeological evidence in the form of rubbish pits, cess pits, tanning pits, kilns, yard and surfaces, buildings, ironworking evidence etc. The site does not appear to have been subject to substantial disturbance in the intervening period – historic maps from the 19th century show the site as garden land associated with ‘Repton Lodge’, a substantial house situated just west of the existing dwelling. A watching brief was carried out in 2016 on a detached garage at 24 High St, west of the proposal site. Although no archaeological features were identified there were a number of finds including saggars and other kiln furniture suggesting pottery production in the vicinity, which may raise an additional element of archaeological potential. The archaeological potential thus identified is best addressed through archaeological monitoring of groundworks (watching brief) to be secured by condition.

The Environmental Health Officer has no concerns about any potential environmental impacts associated with this development and does not object or request the imposition of any conditions.

Repton Parish Council whilst not objecting to the development of a dwelling on this site consider that the present proposal contravenes the Repton Neighbourhood Plan in that it is a large dwelling and in its present position will affect local properties. The current proposal would dominate the neighbouring property and would not be in balance. In particular the proposal does not comply with the final section of H2 which states that: The development does not adversely affect neighbouring properties by reason of noise, unsuitable access, loss of privacy, loss of daylight, or visual intrusion that would affect the amenity of adjoining properties.

Four neighbour objections have been received raising the following issues:

- The proposal in its proposed location will adversely affect neighbouring properties through the loss of light, noise, privacy and visual intrusion.
- The proposal is too close to No 26 being on a much grander scale to the dwelling proposed on the indicative plan provided with the outline planning permission.

- The ground levels are such that the new dwelling would overshadow our whole garden.
- Kitchen window of No 26 would be overlooked which also includes sitting and dining area.
- Eight of the new dwellings windows would overlook no 26.
- There are three other locations that the dwelling could sit within the site which would not impact on neighbouring properties to the same degree.
- Location of the dwelling appears to contradict its own design and Heritage statement.

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

- This is an interesting modern build with minimal impact as it is low elevation and on a site which is very secluded.
- It preserves most of the trees on the site and these were considered to be "a village amenity" when seen by the Council tree expert when we applied for outline planning permission when we owned the land.

Relevant policy, guidance and/or legislation

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets) BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport);
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage), H24 (Replacement Dwellings in the Countryside);
- Repton Neighbourhood Development Plan (NDP): H1 (Limits of Development), H2 (Development Within Settlement Confines), H3 (Housing Mix), H5 (Design of New Developments to be High Quality), OS3 (Important Trees and Hedgerows).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Repton Conservation Area Character Statement 2013

Planning considerations

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

- Principle of the Development
- Design and Amenity;
- Heritage and
- Highway safety

Planning assessment

Principle of the Development

With reference to policy H1 of the LP1 and policy SDT1 of the LP2 the site is located within the settlement boundary of Repton one of the Districts key service villages. New development is targeted towards these defined settlement areas subject to any development being of an appropriate scale with regards to the size and role of that settlement and subject to it complying with other relevant policies and guidance. It is also relevant that outline planning permission has already been granted for a single

dwelling on this site in 2015. The reserved matters application associated with this consent is still pending, and, were it to be determined, would also allow approval of a dwelling subject to those reserved matters of layout, scale, appearance and landscaping. The principle of development on this site is therefore established.

Design and Amenity

The most applicable policies to consider in this assessment are BNE1 of the LP1 and BNE10 of the LP2 supported by the Design SPD which seek to ensure that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located. In addition, policies H1, H2, H3 and H5 of the Repton Neighbourhood Plan are also relevant. These policies broadly follow the Local Plan policies and policy H4 refers to Repton's Village Design Statement. Neither the Neighbourhood Plan nor the Village Design Statement rule out the potential for contemporary design, indeed there are some allusions to more contemporary additions to the area which are considered to have positively responded to the surrounding historic environment. The need for design policies to not stifle innovation within the NPPF remains a valid consideration when addressing the content of these local policies.

The proposal is for a flat roofed dwelling, sections show that despite the sloping nature of the site the proposed building would have a maximum height lower than the heights of properties on the lower ground nearer High Street. The design is broadly 'L' shaped at ground floor with a more linear form at first floor skewed across the two arms of the ground floor plan. This provides a high degree of character through articulation as well as creating a variety of open and covered space both at ground floor and through areas of first floor roof deck proposed for use as external terrace. The proposed roof terrace has the advantage of being screened from High Street, with only glimpsed views of the mass of the first floor block from High Street. The change in plan form from ground to first floor is somewhat atypical for the area, however examples of timber framed dwellings within the village (Tudor Lodge on High Street) have projecting elements at first floor, with jettied construction also being a common feature in timber framed buildings. As such the approach to first floor projections and the way in which they create both articulation and covered spaces (a porch in the case of Tudor Lodge and in the case of this design an external dining patio and covered space between house and garage). The design is also a positive response to the site, seeking to maximise its context to provide screening both of the building itself but also of its external spaces, particularly the elevated terrace.

Policy SD1 seeks to ensure development does not lead to adverse impacts on the environment or amenity of existing or future occupiers. The location of the proposed dwelling close to the eastern boundary of the site has raised objections in terms of overlooking, overshadowing and neighbour amenity. However, the ground floor elevation of the proposed dwelling would be at its closest, 1.8m from the boundary fence. Given this closest elevation is single storey flat roofed element of the building and reaches a height of 3.5m, a distance of 8.7m away from the side elevation of No 26 this is not considered unacceptable. The first floor accommodation is set further back from the boundary being more than 9.6m away from No 26 - 2.6m back from the shared boundary at the northern end. As the first floor accommodation is angled away from No 26 the southern end of the first floor accommodation, oversailing the driveway, would be 13.5m back from the boundary of No 26. The height of the first floor roof is approximately 7m. Given the building does not step up from its point closest to No 26 but is 'sunk' into the rising ground to the west the building does not have any greater impact. The south east corner of the first floor accommodation would be 3.0m away from the side elevation of 16 The Pastures. This elevation has no primary windows. The southern elevation of the proposed dwelling has two tall narrow windows for bedrooms. These face on to the driveway of No 16. Whilst not looking out onto private amenity space, a condition is recommended for these windows to be obscure glazed. The rear elevations facing east towards No 26 at ground floor level are not primary windows but serve utility and secondary kitchen windows, the main kitchen and living space being lit by large glazing from the west. Only three of the eight windows at first floor level facing east are primary windows, one serving a bedroom at the southern end, windows 3 and 4 serve a home office. The closest of these windows would be 10m from the boundary fence and the ground floor accommodation would protrude more than 8m in front of this window making overlooking into the rear garden of No 26 very difficult. In addition, the 'office' window is not within the sector of view of No 26's secondary kitchen window. The roof of the

block forming the south west corner of the ground floor is proposed to be used as a seating area or terrace details show that this southern elevation would be screened to minimise overlooking of 18 The Pastures private amenity space. A condition is proposed for the details of method of screening to ensure this is adequately provided for.

Overall the proposed design and layout and is considered to provide an innovative solution to developing an enclosed site, which includes retaining mature trees and avoiding any neighbour amenity issues subject to the imposition of conditions for obscure glazing to the south and details of screening to the roof terrace. The proposal is therefore considered to comply with policies BNE1 and SD1 of LP1 and BNE7 of LP2 as well as the Design SPD and the Repton Neighbourhood Plan Policies H2, H3, H4, H5 and OS3.

Heritage

The site sits well behind the frontage of both nearby roads, part of the site would be visible through a narrow gap between 18 and 28 High Street and trees within the site are visible over the garage roof at 32 High Street. From Mitre Drive visibility of the plot is limited by trees and neighbouring properties, including The Lodge and 14-18 Mitre Drive, again all with plots containing trees which provide further screening. As such the plot itself has relatively limited presence within the public realm, what can be seen from Mitre Drive is largely limited to the southeast side of the site whilst what is visible from High Street is mostly the northern edge of the site. The proposed materials are a mix of render and sandstone, both seen in traditional buildings within the village (render seems to be reserved for areas under overhangings of the first floor), alongside timber cladding at first floor which responds well to the retained tree cover within the site. The Conservation Officer is satisfied that the proposal would 'preserve' the special architectural and historic character and appearance of the conservation area as is described as a 'desirable' objective within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As set out in the response above, subject to the conditioning of an archaeological watching brief there are no objections to the development on archaeological grounds. Overall, subject to conditions the proposal is considered to comply with the requirements of policies BNE2 and BNE10.

Highway safety

The proposed access to the site from Mitre Drive is considered to be acceptable, itself an unadopted highway and the County Highway Authority has no objections to the principle of a new dwelling in this location subject to conditions relating to the storage of plant and materials during construction and alteration of the access to Mitre Drive in addition to space being provided within the site for parking and manoeuvring of vehicles. The proposal is therefore considered to comply with the requirements of 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs 01003 Rev P1 (Proposed Site Plan); 01004 Rev P1 (Floor Plans); 01005 Rev P1 (Elevations and

Section); 01006 Rev P1 (Elevations); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

5. Throughout the construction phase space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicle, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: 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.

6. Prior to occupation the access to Mitre Drive shall be modified in accordance with the submitted drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.

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

7. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plan(s) and the 6Cs Design Guide (or any subsequent guidance that may amend or replace it); and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is to be counted as a parking space, the internal dimensions shall not be less than 3m wide by 6m long with any service or vehicular doors opening outwards.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

8. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological work (WSI) has been submitted to and approved in writing by the Local Planning Authority, and until all pre-commencement elements of archaeological fieldwork identified in the WSI have been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme and provision to be made for post investigation analysis and reporting;
 - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) provision to be made for archive deposition of the analysis and records of the site

investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the window hereby approved serving the first floor bedrooms in the south elevation shall be glazed in obscure glass and non-opening (except in an emergency) and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the balcony hereby approved shall not be used until a screen to its southern edge has been installed in accordance with details first submitted to and approved in writing by the Local Planning Authority. The screen shall thereafter be retained in situ and maintained as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

11. The development shall proceed in accordance with the recommendations of the Arboricultural Report and Method Statement dated 9 February 2021.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area.

12. Notwithstanding the approved plans prior to the occupation of a dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. Where areas of public open space are included in the proposals, the details shall be supplemented with details of play equipment, seating, litter and dog waste bins, signage and other ancillary structures (as necessary). All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

13. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

14. Prior to their incorporation in to the building hereby approved, details of the finish to the wall head/parapet walls and edges/joints of material finish at the join between the elevation and underside of the projecting first floor shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The parapet walls shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the building(s) and local distinctiveness.

15. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

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

Item No. 1.3

Ref. No. [DMOT/2020/1211](#)

Valid date: 09/11/2020

Applicant: Martin Buckley

Proposal: The felling and pruning of various tree(s) covered by South Derbyshire District Council Tree Preservation Order no.65 on Land at SK2918 7280 York Road, off York Road Church Gresley, Swadlincote, DE11 0AH

Ward: Church Gresley

Reason for committee determination

The Council is the applicant.

Site Description

The application affects an area of trees on a Council owned parcel of land, the land set behind houses on York Road, Charles Street and Wood Lane, Church Gresley. The site is mainly flat but heavily treed, featuring mostly lime and sycamore.

The proposal

The proposal is for routine maintenance of the tree stock here, including pollarding a number of the limes, the felling of two sycamores and crown reductions to a number of sycamore trees.

Applicant's supporting information

Full arboricultural surveys and assessments have been submitted as justification for the proposed works.

Relevant planning history

2011/0290: Proposed tree works - Approved June 2011.

Responses to consultations and publicity

One objection has been received through consultation, raising issue that the sycamore to the rear of his/her property is neither being removed or made safe. If that is indeed the case, the Housing department should be contacted separately, these trees regularly inspected such any defects would be picked up.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

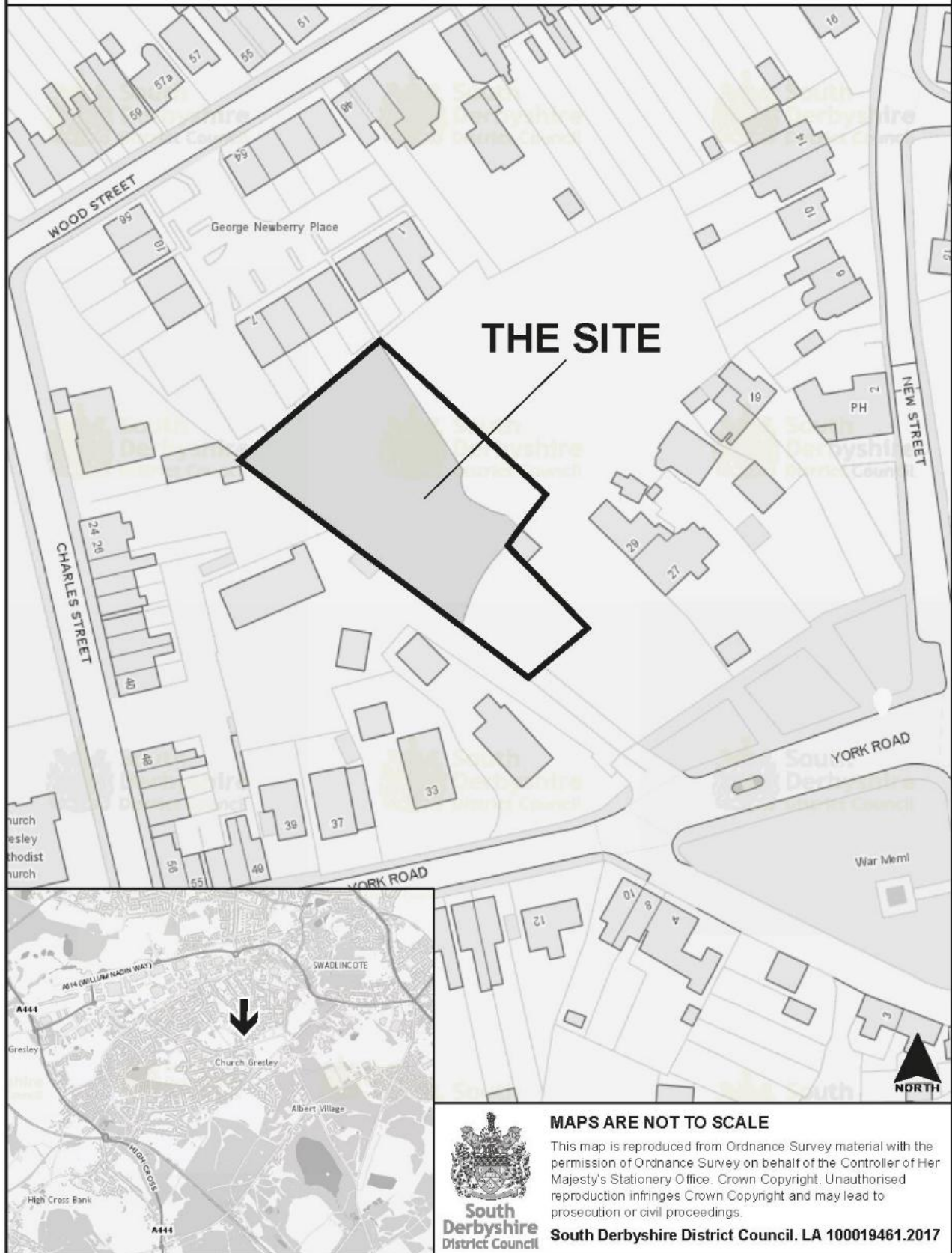
The relevant national policy and guidance is:

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

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

**DMOT/2020/1211 - Land at SK2918 7280, off York Road, Church Gresley,
Swadlincote DE11 0AH**



Planning considerations

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

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

Planning assessment

Whether the works are justified

The works are justified as routine safety/tree maintenance works. There are liability concerns here given the proximity to people's gardens etc. and that needs an element of resolution.

Whether the resultant biodiversity and amenity value remains acceptable

Providing the work is carried out to the appropriate standard (to be secured by condition) the long term amenity and wildlife value of the trees would not be unacceptably diminished and would still make a valuable and positive contribution the character of the area, both main species are known for their hardy nature and generally recover well when pruned.

The works offer a considered balance between the need to remove identified hazards, given the proximity to high target areas, whilst upholding the trees elevated status. To that end the proposed works are recommended for approval and considered to comply with policies BNE3, BNE4 & BNE7.

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

Recommendation

Grant consent subject to the following conditions:

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

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

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

Reason: To ensure that the works are carried out in the best interests of the health of the tree(s).

Item No. 1.4

Ref. No. [DMOT/2021/0145](#)

Valid date: 21/01/2021

Applicant: Martin Buckley

Proposal: The pruning of overhanging branches to trees covered by South Derbyshire District Council Tree Preservation Order no. 381 at 28 Peniston Rise, Melbourne, Derby, DE73 8EZ

Ward: Melbourne

Reason for committee determination

The Council is the applicant.

Site Description

The site is a former, now wooded, quarry which now contains two detached houses and ancillary buildings. The woodland on the site is protected by TPO No. 381. At the northern boundary some of the trees overhang the gardens to bungalows in Peniston Rise. The bungalows have rear gardens varying from about 4m to 8m in depth.

The proposal

The proposal involves cutting back to the boundary those trees overhanging the rear gardens to Nos. 20-34 Peniston Rise.

Applicant's supporting information

None.

Relevant planning history

The TPO was made in response to planning application 9/2014/0216 for a new dwelling which put a number of well-established trees on the site under threat. The relevant report to Committee noted that the woodland is well seen from a number of public vantage points (public footpaths etc) and contributes to the landscape setting of the adjoining conservation area, itself part of the setting to Melbourne Hall and its registered garden. The woodland therefore provides important visual amenity and contributes to the character of the locality.

Responses to consultations and publicity

Melbourne Parish Council has no objection.

An objection has been received from a member of the public as follows:

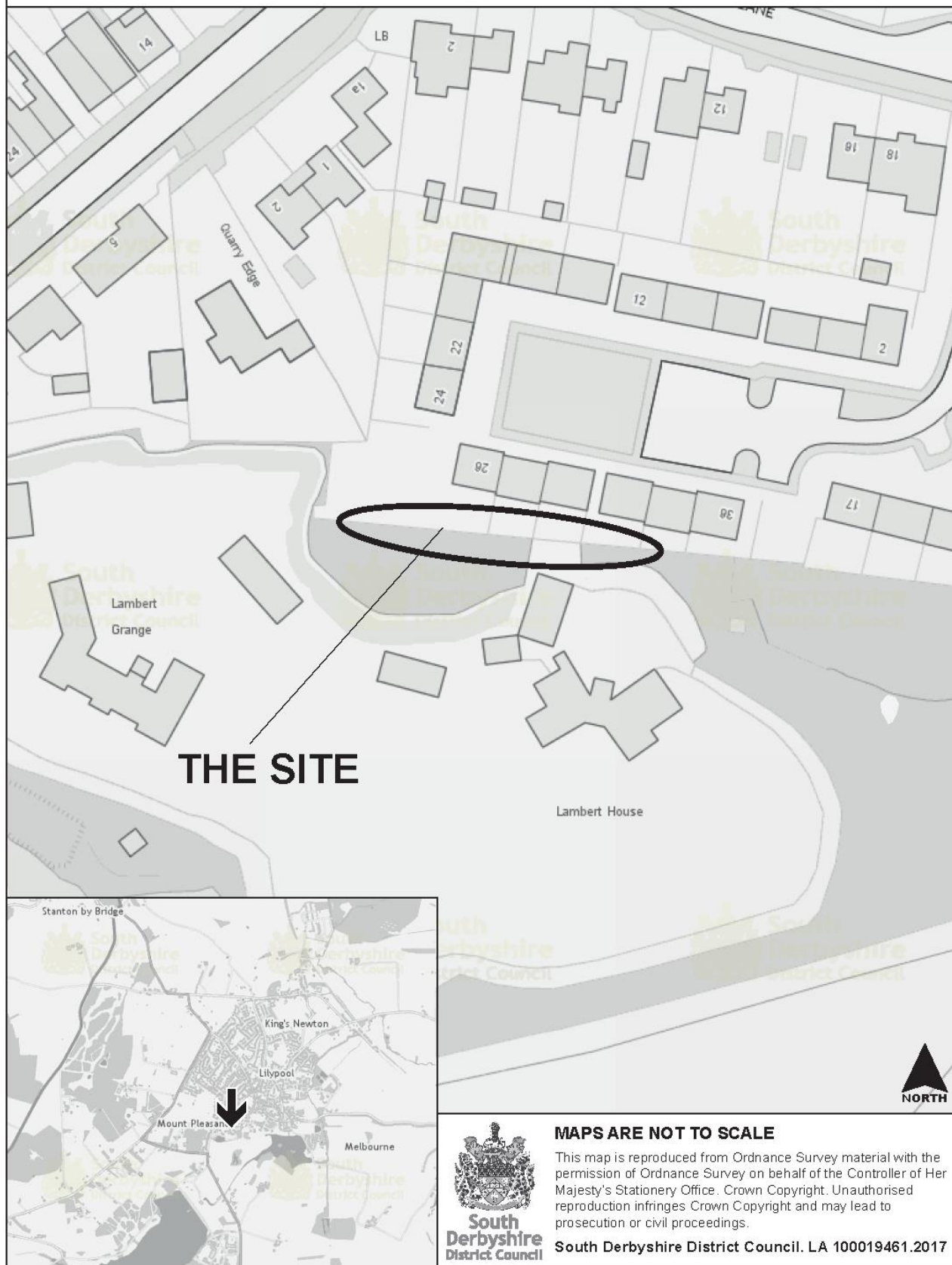
- The trees are planted on adjoining land and a couple of small branches are hanging over to 28 Peniston Rise. The photo evidence that the applicant has submitted with the planning application is not a true representation of No 28's back garden.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

DMOT/2021/0145 - 28 Peniston Rise, Melbourne, Derby DE73 8EZ



The relevant local guidance is:

- Melbourne Conservation Area Character Statement

The relevant national policy and guidance is:

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

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

Planning considerations

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

- Whether the works are justified; and
- Whether the resultant amenity value remains acceptable.

Planning assessment

Whether the works are justified

In view of the smaller than average rear gardens to the bungalows, cutting back to the boundaries is not unreasonable.

Whether the resultant amenity value remains acceptable

The woodland as a whole is visible from a number of public vantage points and contributes to the landscape setting of the adjoining conservation area, itself part of the setting to Melbourne Hall and its registered garden. The woodland therefore provides important visual amenity and contributes to the character of the locality. Because the trees are at the extremity of the old quarry boundary, from main public vantage points there would be no discernible diminution of the amenity value of the trees in the context of a larger area of woodland. In this context they would still make a valuable and positive contribution to the character of the area, in accordance with policies BNE3, BNE4 and BNE7.

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

Recommendation

Grant consent subject to the following conditions:

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

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

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

Reason: To safeguard the health of the trees.

Item No. 1.5

Ref. No. [DMOT/2021/0117](#)

Valid date: 20/01/2021

Applicant: Messrs. C and J Shaw

Agent: John Steedman

Proposal: Prior approval under section 77 of the Conservation of Habitats and Species Regulations 2017 for proposed excavation to create a slurry store Land at SK 2513 8516, South West of Woodfield Farm, Grangewood, Swadlincote, DE12 8BH

Ward: Seales

Reason for committee determination

This application is reported to the Planning Committee as applications under Section 77 of The Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') are not presently included within the Council's Scheme of Delegation.

Site Description

The application site relates to a small area of land within an existing arable field, which is accessed via a long track along the edge of the field onto an unnamed road at Grangewood, near Swadlincote. The work is being undertaken by the landowner and applicant in order to extend the available slurry storage capacity for the dairy unit at Woodfields Farm, located 500m north east of the application site.

The proposal

The application is in relation to the proposed excavation of the land to create a new slurry store. Due to the potential impact on the River Mease Special Area of Conservation (SAC) arising from the works proposed under Prior Notification ref. DMPN/2020/0539, the applicant is required to submit an application in accordance with Section 77 of the Habitat Regulations to allow the Council to assess the potential effects of the proposal on the European Site prior to the commencement of the development (noting that consultation with Natural England is not carried out under Prior Notifications and Prior Approvals pursuant to the Town and Country (General Permitted Development) Order 2015).

Applicant's supporting information

A compliance report prepared by an agricultural engineer sets out the details of the proposed activities on the site and how the development would comply with The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations (SSAFO), with the primary concern being the protection of the River Mease SAC.

Relevant planning history

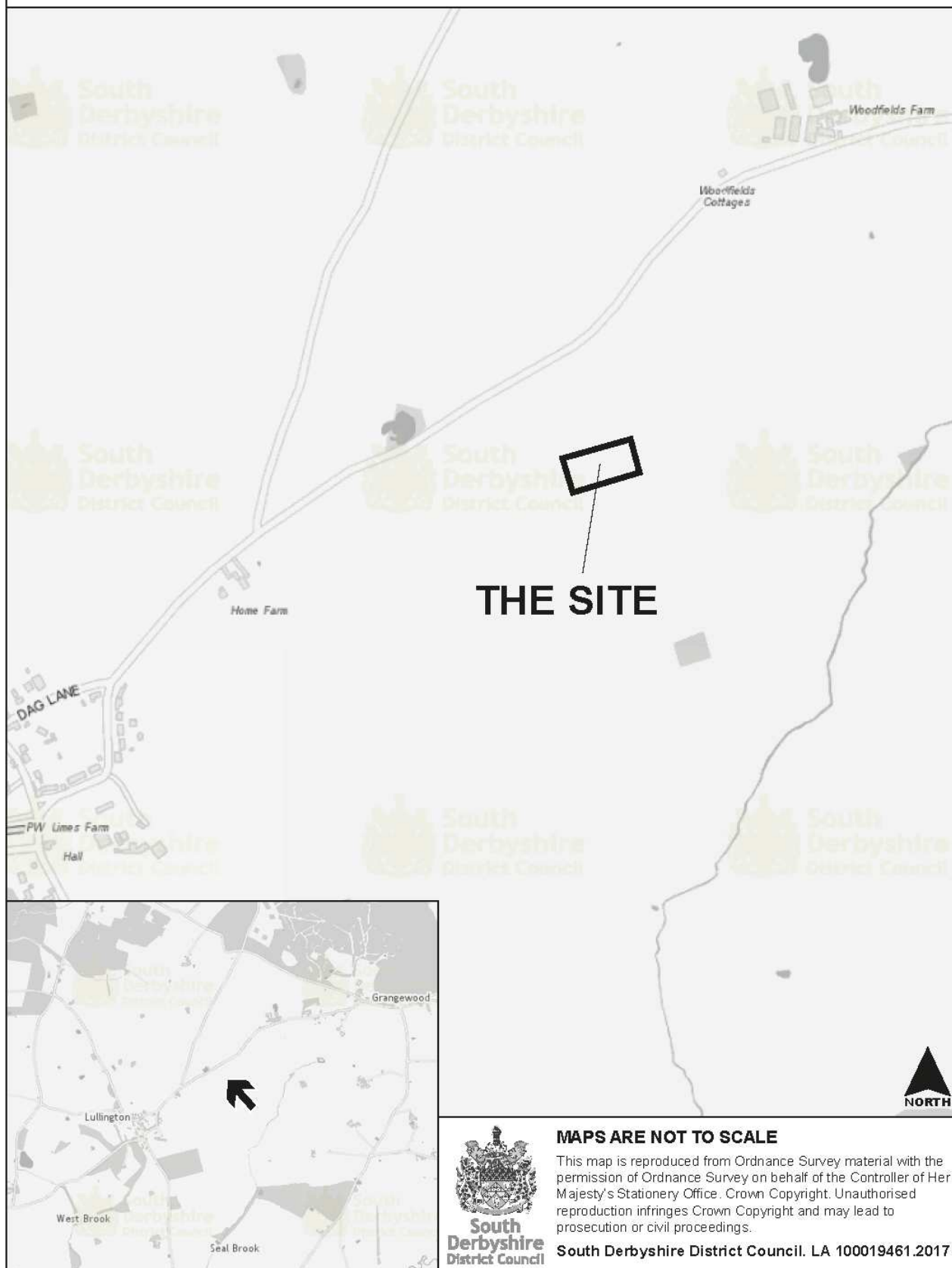
DMPN/2020/0539: Prior notification to determine if prior approval is required for a proposed excavation to create a slurry store - Deemed Approval.

Responses to consultations and publicity

Natural England considers that based on the plans submitted, the proposed development would not have significant adverse impacts on designated sites and has no objection.

The Environment Agency considers that due to the detailed report submitted alongside the prior approval submission, they have no objection to the construction of the slurry lagoon.

DMOT/2021/0117 - Land at SK2513 8516, South West of Woodfield Farm, Grangewood, Swadlincote DE12 8BH



Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE3 (Biodiversity);
- Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas) and BNE6 (Agricultural Development).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

The scope of consideration under this application rests on the response of Natural England as the expert authority in respect of impacts on European Sites - the River Mease SAC in this case.

Planning assessment

The overall aim of this project is to provide additional slurry storage capacity for the working dairy farm at Woodfields Farm. The works benefit from 'deemed consent' following the submission of a Prior Notification for the proposed works in June 2020. Following the requirement for a Stage 2 Habitat Regulation Assessment (appropriate assessment) of the proposed works, it is considered that the proposed development would have no likely significant effect on the River Mease SAC, as there will be no harmful discharges of foul or surface water from the application site into the River Mease SAC or its tributaries. The submitted compliance report outlines that the slurry store would be constructed according to the SSAFO regulations. In addition, following consultation with both Natural England and the Environment Agency, as a result of the compliance report submitted, no objections were raised and as such it is considered that consent for the proposal can now be approved.

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

Recommendation

Approve subject to the following informative:

Informative:

- a. The applicant should take reasonable measures to protect the hedgerow and the root system from impacts of compaction while accessing the site and while it is under construction. This can easily be done by demarking the area to prevent entry by vehicles and also ensures that birds can continue to use the connected habitats. Compaction also damages hedgerow and tree root systems. Root systems help to support healthy soil and aid water infiltration.

We would like to signpost the applicant to the dedicated Catchment Sensitive Farming Officer for the Mease area who offers free advice and can highlight grants schemes that may be of interest. There is a new Slurry Investment Scheme being discussed that could be of interest and is targeted at the most environmentally sensitive areas, such as the Mease area.

There is also the Mease Farming Facilitation Group which holds networking and training events with local

farmers. It is open to all farmers in the catchment and welcomes new members. Details can be found on the www.rivermease.co.uk website.

We would also like to highlight a catchment project in the River Mease SAC catchment area which extends to the tributaries. Trent Rivers Trust have a dedicated River Mease Project Manager who is interested in working with land owners throughout the catchment, to deliver projects in line with the conservation objectives of the Mease which ultimately improve the status of the designated river. A website of the current work and contacts for above can be found here: www.rivermease.co.uk.

2. **Planning and other Appeals**

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Reference	Place	Ward	Outcome	Decision level
DMPA/2020/0915	247 Hearthcote Road	Swadlincote	Allowed	Committee



Appeal Decision

Site Visit made on 15 February 2021

by Rachel Walmsley MSc, MA, BSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/F1040/D/21/3266987
247 Hearthcote Road, Swadlincote, DE11 9DU

- 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 V Kotecha against the decision of South Derbyshire District Council.
- The application Ref DMPA/2020/0915, dated 25 August 2020, was refused by notice dated 17 December 2020.
- The development proposed is two-storey side and single storey rear extension and detached garage.

Decision

1. The appeal is allowed and planning permission is granted for two-storey side and single storey rear extension and detached garage at 247 Hearthcote Road, Swadlincote, DE11 9DU in accordance with the application ref DMPA/2020/0915, dated 25 August 2020 and subject to the following conditions:
 - i) The development hereby permitted shall begin not later than 3 years from the date of this decision;
 - ii) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Elevations PL005 B and PL006 C; Proposed Ground Floor Plan PL001 J; Proposed First Floor Plan PL002 N; and Proposed Garage Site Plan PL007 C.
 - iii) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - iv) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include, but not limited to, means of enclosure and retaining structures, boundary treatments, hard surfacing materials and indications of all existing trees and hedgerows on the land, identification of those to be retained and the measures for their protection throughout the course of development;
 - v) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die,

are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping shall be carried out prior to the first use of the development hereby approved, and;

- vi) The balcony hereby approved shall not be used until the parapet wall has been installed in accordance with the approved plans. The wall shall thereafter be retained in situ and maintained as such.
- vii) Site demolition, preparation and construction works shall only be carried out between the hours of 08:00 and 18:00 Mondays to Fridays and between the hours of 08:00 to 13:30 Saturdays. In any event no site demolition, preparation or construction works shall take place on Sundays or Bank Holidays without the prior written consent of the local planning authority.

Main Issues

2. These are:

- i) the effect of the proposal on the character and appearance of the area, and;
- ii) the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

- 3. Although the development comprises a notable extension of the existing property, the form and appearance of the development remains sympathetic to that of the host dwelling. The fenestration would complement that of the existing property. The two-storey extension would be set down from the existing ridge line and in from the front wall of the host dwelling, creating a subservient appearance. The garage, irrespective of the number of cars it could accommodate would not appear unduly large in relation to the form and scale of the host dwelling. And the single storey rear projection would not appear overly dominant. As such the development would not be harmful to the overall form and scale of the existing property.
- 4. The appeal site is large and spacious and the scale of the appeal property is commensurate with this. Sufficient space would remain around the building for it to be accommodated comfortably within the site. Together with my findings above, the development would not appear cramped or overdeveloped.
- 5. The appeal site is well screened from its surroundings by mature trees and soft landscaping. Indeed, trees are an important part of the site's verdant character, reflected in the site being subject to a Tree Preservation Order. It has been brought to my attention that trees could be lost to facilitate the development. This is not apparent from the evidence before me. Nevertheless, any works to trees protected by a Tree Preservation Order require consent.
- 6. A third party raises concern that vehicles could be better accommodated within the site without a garage of the size proposed. However, it is for the appellant to decide how to develop the site, the purpose of the planning process being to

make sure that development meets private needs whilst protecting amenity and the environment in the wider public interest.

7. In light of my findings above, I find that the development would not be harmful to the character and appearance of the host dwelling or surrounding area and so would comply with policies SD1, BNE1 and BNE4 of the Local Plan Part 1 (2016) and policy H27 of the Local Plan Part 2 (2017) which seek development that, amongst other things, responds positively to its context and so does not have an adverse impact on the character and appearance of the area.

Living conditions

8. The Council's decision notice states that the development would result in a detrimental impact on amenity. However, there is nothing within the evidence before me that explains this harm and the anticipated effect of the development on the living conditions of the occupiers of No 249 Hearthcote Road.
9. There are two secondary ground floor windows and a conservatory at the adjoining property, No 249, that overlook the appeal site. Between them and the appeal site is a close boarded fence on the shared boundary. The garage proposed would be closer to the shared boundary than the existing property. However, there would be sufficient space between the garage and the shared boundary for the development to not appear oppressive or overbearing when viewed from the internal living spaces at No 249.
10. The garage would be in the sun's path as it travels from east to west. But being single storey, within the shadow of the host property and a reasonable distance from the neighbouring house, the development would not overshadow the living areas at No 249 in such a way that the development would create dark and gloomy living spaces that could be considered harmful to living conditions.
11. The privacy of the occupiers of No 249 when in their garden or conservatory would be protected by the parapet wall on the proposed balcony. Prospective occupiers standing on the balcony above the proposed pool would be a notable distance from No 249 for, therefore, there to be no direct overlooking that could be considered an invasion of privacy.
12. All in all, I find that the development would not be harmful to the living conditions of neighbouring occupiers and so the development would not be contrary to policies SD1 and BNE1 of the Local Plan Part 1 (2016) and policy H27 of the Local Plan Part 2 (2017) which seek development that, amongst other things, does not lead to adverse impacts on the living conditions of adjoining properties.

Other matters

13. My attention is drawn to the possibility of water tanks on the site which would require planning permission. There is no suggestion of this within the evidence before me. Nevertheless, the appellant is advised to contact the Council for any further development proposed, beyond what is included in the appeal proposal.
14. A party wall notice is given to neighbours prior to building works starting. As the appellant doesn't have planning permission for the works proposed, it is not

unreasonable that a party wall notice has not been served. And so it remains possible for third party concerns about ground stability to be investigated. Meanwhile, there is nothing before me to suggest that the structural integrity of the neighbouring property would be harmed as a result of the development proposed.

15. The plans include dimensions that indicate the size of the proposed development. These plans and associated dimension details have been accepted by the Council and the accuracy of them is not in dispute between the main parties. Indeed, the proposal has been determined on the information provided within these plans. Nevertheless, a question as to the accuracy of some of these details has been raised by an interested party but having undertaken a site visit, these details appear to be accurate. I have therefore considered the appeal on those terms.
16. There is nothing within the evidence before me to suggest that the garage would be used for anything other than parking vehicles. Therefore, should planning permission be given, a condition controlling the use of the garage is unnecessary.
17. There would be sufficient space within the site for vehicles to park and use would be made of the existing site access which I have no evidence of being substandard or causing harm to highway safety. Together with no objection being raised by the Council to highway safety, this matter does not impact my decision.
18. Representations were made to the effect that the rights of the adjoining occupier at No 249, under the Human Rights Act 1998, Articles 1 and 8 of the First Protocol, would be violated if the appeal were allowed. I do not consider this argument to be well-founded because I have found that the proposed development would not cause unacceptable harm to the living conditions of the neighbouring occupants. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Articles 1 or 8 of the First Protocol.

Conditions

19. The Council has suggested several conditions in the event that planning permission is granted. In addition to the standard time period for commencement of the development, I have attached a requirement for accordance with the approved plans in the interests of certainty. Conditions regarding materials and landscaping are necessary to ensure that the character and appearance of the area is safeguarded.
20. In the interests of amenity, a condition is necessary to ensure that the parapet wall is installed and remains in place at all times. With the parapet wall in place the garage roof could not be accessed and so a condition to this effect is unnecessary.
21. A third party concern has been raised in relation to the construction of the development. Given the distance of the access from No 249, details concerning access and egress during construction are not necessary. However, a condition regarding the hours of work would protect the living conditions of the neighbouring occupiers during construction.

Conclusion

22. For the reasons given I conclude that the appeal should succeed.

R Walmsley

INSPECTOR