

Date: 18<sup>th</sup> February 2019

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 26 February 2019 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Members**

Councillors Coe and Tipping

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
  
- 2** To receive the Open Minutes of the following Meetings:  
  
Planning Committee 16th October 2018 Open Minutes **4 - 9**  
  
Planning Committee 6th November 2018 Open Minutes **10 - 14**  
  
Planning Committee 27th November 2018 Open Minutes **15 - 18**
  
- 3** To note any declarations of interest arising from any items on the Agenda
  
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
  
- 5** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **19 - 63**

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

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

Planning Committee 16th October 2018 Exempt Minutes

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

PLANNING COMMITTEE

16<sup>th</sup> October 2018

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Rhind (substituting for Councillor Tilley), Shepherd and Southerd

**Independent / Non-Grouped Member**

Councillor Coe

**In attendance**

Councillors Atkin and Grant

PL/86 **APOLOGIES**

Apologies for absence were received from Councillors Stanton (Conservative Group), Councillor Tilley (Labour Group) and Tipping (Independent / Non Grouped Member)

PL/87 **MINUTES**

The Open Minutes of the Meetings held on 26<sup>th</sup> June 2018, 17<sup>th</sup> July 2018, 7<sup>th</sup> August 2018 and 4<sup>th</sup> September 2018 were taken as read, approved as a true record and signed by the Chairman.

PL/88 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/89 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE****PL/90 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

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

**PL/91 THE CHANGE OF USE OF AGRICULTURAL LAND FOR USE AS RESIDENTIAL CARAVAN SITE FOR 6 GYPSY FAMILIES, INCLUDING THE ERECTION OF TWO AMENITY BUILDINGS, LAYING OF HARDSTANDING AND ACCESS IMPROVEMENTS ON LAND AT SK4229 2454 SHARDLOW ROAD ASTON ON TRENT DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

The Planning Services Manager presented the report to the Committee updating Members that since publication of the report, correspondence had been received from the Derbyshire Gypsy Liaison Group which was read to the Committee. The Planning Services Manager explained the application as finely balanced, where the need to meet the five-year supply of deliverable gypsy sites required consideration against the issues raised in relation to the visual and environmental impact of the proposed site.

An objector and the applicant's agent attended the Meeting and addressed Members on this application.

Councillor Watson addressed the Committee as one of the local Ward Members, raising concern in relation to the visual intrusion of the site, road safety and further highlighted that, in his opinion; statistics demonstrated that the five-year supply would be met by this Council with or without the inclusion of this site. The Councillor urged the Committee to overturn the Officer's recommendation and proposed that the application be refused.

Members sought clarification on the five year supply of gypsy sites querying where this was being documented. The Planning Services Manager addressed the matter explaining that as with housing supply, the provision of such sites would need to meet identified need on a rolling five-year basis. A suggestion was offered by the Planning Services Manager to submit a report to the Environmental and Development Services Committee proposing a Development Plan Document.

Further discussion ensued in relation to the impact of the proposed site on the local landscape and amenities. The proposal to overturn the Officer's recommendation and to refuse the application was carried by the Committee.

**RESOLVED:-**

***That contrary to the recommendation in the report of the Strategic Director (Service Delivery), the Committee resolved that planning permission be refused, with delegated authority to the Planning Services Manager to construct a reason for refusal in accordance with Members' instructions.***

Abstentions: Councillor Mrs Brown and Councillor Dr. Pearson

PL/92 **A CHANGE OF USE FROM EQUESTRIAN LAND TO RESIDENTIAL GYPSY CARAVAN SITE WITH ONE PITCH AT LAND AT SK2913 6212 ACRESFORD ROAD NETHERSEAL SWADLINCOTE**

A proposal to defer the application in order to conduct a site visit was withdrawn on the advice of the Planning Services Manager.

The Planning Delivery Team Leader presented the report to Committee.

An objector and the applicant's agent attended the Meeting and addressed Members on this application.

Councillor Grant attended the Meeting as local Ward Member and addressed the Committee raising concern in relation to the visual intrusion of the site on the local landscape and character, the related sewerage works and enforcement.

Clarification was sought and provided on the requirement of the site and permitted development rights. It was proposed that a condition be imposed to ensure sewerage works be completed before occupation of the site. Delegated authority was sought in order to make the relevant changes to address these concerns.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), with delegated authority to the Planning Services Manager, to amend Condition 7 requiring sewer connection prior to occupation.***

Abstention: Councillor Mrs Brown

PL/93 **THE ERECTION OF 100% AFFORDABLE HOUSING DEVELOPMENT FOR 22 DWELLINGS CONSISTING OF 3 NO TWO BED BUNGALOWS, 4 NO TWO BED HOUSES, 15 NO THREE BED HOUSES AND ASSOCIATED WORKS ON LAND AT STALEY CLOSE SWADLINCOTE**

The Planning Delivery Team Leader presented the report updating the Committee that a representation had been received from Environmental Health and proposed amendments to Conditions 7 and 12 within the report.

Clarification was sought in relation to the layout and location of the bungalows on the site which was provided by the Planning Delivery Team Leader.

**RESOLVED:-**

*That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery) subject to amendments to Condition 7 and 12.*

Abstention: Councillor Mrs Brown

PL/94 **ERECTION OF AN ACCOUSTIC BARRIER AROUND THE PERIMETER OF THE MARQUEE AT ROSLISTON FORESTRY CENTRE BURTON ROAD ROSLISTON SWADLINCOTE**

**RESOLVED:-**

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

PL/95 **THE VARIATION OF CONDITIONS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 AND 15 OF PLANNING PERMISSION REF: 9/2015/1092 (RELATING TO THE ERECTION OF 6 TWO BEDROOM HOUSES WITH ASSOCIATED PARKING GARDENS AND ACCESS) TO AMEND THE APPROVED PLANS (CONDITION 2), TO AMEND THE PROPOSED MATERIALS (CONDITION 3), THE PROVISION OF SURFACE WATER DRAINAGE DETAILS (CONDITION 4), THE PROVISION OF A CONSTRUCTION MANAGEMENT PLAN (CONDITION 5), DETAILS OF LIKELY CONTAMINATION (CONDITION 6), TO AMEND TEMPORARY ACCESS DETAILS (CONDITION 7), TO AMEND POSITION OF PLANT AND MATERIALS (CONDITION 8), DETAILS OF WHEEL WASHING (CONDITION 9), TO AMEND FOOTWAY DETAILS (CONDITION 10), THE PROVISION OF VEHICULAR ACCESS DETAILS (CONDITION 11), TO AMEND PARKING LAYOUT (CONDITION 12), TO AMEND BOUNDARY TREATMENT DETAILS (CONDITION 14) AND TO AMEND LANDSCAPING DETAILS (CONDITION 15) AT LAND AT SK2915 0614 LULLINGTON ROAD OVERSEAL SWADLINCOTE**

The Planning Services Manager updated the Committee that since publication of the report, no objections had been received from the Parish Council and delegated authority was being sought in order to address the comments raised by the Highways Authority in relation to Condition 8 within the report.

**RESOLVED:-**

*That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery) with delegated authority to amend Condition 8.*

PL/96 **DEMOLITION OF EXISTING GARAGE AND PART OF FRONTAGE WALL AND CONVERSION OF EXISTING OUTBUILDING TO FORM A RESIDENTIAL DWELLING AT 31 CHAPEL STREET TICKNALL DERBY**

The Planning Services Manager presented the report to Committee advising that the application had been previously deferred by the Committee for an independent engineer's report. The findings of the report meant that officers could no longer maintain the original recommendation. The applicant had since appealed against non-determination and therefore only the opinion of the Committee was now being sought by officers.

An objector to the application attended the Meeting and addressed Members on this application.

**RESOLVED:-**

***That an objection be endorsed as recommended in the report of the Strategic Director (Service Delivery).***

PL/97 **RELEVANT DEMOLITION CONSENT FOR DEMOLITION OF EXISTING GARAGE AND PART OF FRONT BOUNDARY WALL AT 31 CHAPEL STREET TICKNALL DERBY**

An objector to the application attended the Meeting and addressed Members on this application.

Members raised concerns in relation to the demolition of the wall but no objection was raised in relation to the demolition of the garage

**RESOLVED:-**

***That no objection for the demolition of the garage be endorsed as recommended in the report of the Strategic Director (Service Delivery), with delegated authority to offer an objection to the demolition of the wall.***

PL/98 **HIGHWAYS ENGLAND A38 DERBY JUNCTIONS SCHEME, PLANNING ACT 2008 SECTION 42 NSIP CONSULTATION**

**RESOLVED:-**

***1.1 The Committee approved that the Council response to the consultation expresses support for the proposed scheme as it will:***

***(i) Provide additional highway capacity needed to enable the development of land allocated in the South Derbyshire Local Plan for new housing; and***

***(ii) Improve the reliability of journey times for traffic using the A38 thereby assisting in the attraction and retention of business investment in South Derbyshire.***

PL/99 **NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL NEIGHBOURING AUTHORITY PLANNING APPLICATION CONSULTATION: APPLICATION FOR THE DEVELOPMENT OF A DISTRIBUTION CAMPUS WITH**

**ASSOCIATED AND OTHER ANCILLARY USES, ON LAND AT M42, JUNCTION 11 STRETTON-EN-LE-FIELD LEICESTERSHIRE**

**RESOLVED:-**

***1.1 The Committee approved that the comments set out in Section 4, "Conclusions", of the report be submitted to North West Leicestershire District Council as this Council's response to the consultation.***

PL/100 **PROPOSED TREE PRESERVATION ORDER 492 – FORMER ALLOTMENTS, GRESLEY WOOD ROAD, CHURCH GRESLEY**

**RESOLVED:-**

***The Committee approved that the tree preservation order be confirmed.***

PL/101 **PROPOSED TREE PRESERVATION ORDER 493 – LAND AT DOLES LANE, FINDERN**

**RESOLVED:-**

***The Committee approved that the tree preservation order be confirmed.***

PL/102 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

**EXEMPT MINUTES**

***The Exempt Minutes of the Meeting held on the 17<sup>th</sup> July 2018 were taken as read, approved as a true record and signed by the Chairman.***

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

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

The meeting terminated at 8.30pm.

COUNCILLOR MRS L BROWN

PLANNING COMMITTEE

6<sup>th</sup> November 2018

**PRESENT:-**

**Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Ford, MacPherson (substituting for Cllr Harrison), Muller Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

PL/105 **APOLOGIES**

Apologies for absence were received from Councillors Harrison (Conservative Group) and Councillors Coe and Tipping (Independent / Non Grouped Member)

PL/106 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/107 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/108 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

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

PL/109 **THE CHANGE OF USE OF VACANT GYMNASIUM (USE CLASS D2) TO BAR AND RESTAURANT (USE CLASS A3/A4) WITH ALTERATIONS INCLUDING RAILINGS, WINDOWS/DOORS, REAR STAIRS, A REAR**

**TERRACED AREA, REAR CANOPY AND A 2.5M HIGH REAR BOUNDARY WALL AT 71 DERBY ROAD MELBOURNE DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

The Planning Services Manager presented the report to Committee and requested that consideration be made by the Committee to add a Condition for the applicant to supply further details in relation to the roof and canopy in the garden.

An objector and the applicant attended the Meeting and addressed Members on this application.

Two statements had been received from local Ward Members, Councillors Harrison and Hewlett, which were read by the Planning Services Manager. Councillor Harrison raised concerns relating to an existing inadequate parking issue in the village and expressed disappointment that the parking provision opposite the site had been withdrawn. In the second statement, Councillor Hewlett endorsed the previously mentioned parking concerns and felt that the use of the site opposite would adequately address these concerns.

Some Members raised concern in relation to privacy for neighbouring residents in relation to the rear garden and requested that the height of the wall at the rear of the building be raised in order to address this.

A discussion ensued in relation to parking where some Members raised this as a concern and another disagreed, commenting that attitudes to driving had changed in recent years, where the increased use of taxis could mean that parking may not be an issue.

Clarification was sought on opening hours and whether the building is listed; the Planning Services Manager advised that the site is in a conservation area, but the building is not listed. The Committee agreed to leave the matter of opening hours to the licensing process.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), with delegated authority to include an extra condition to raise the height of the wall adjacent to the external staircase and an informative advising on hours of opening. The Planning Services Manager was separately tasked with exploring the possibility for securing parking on corner of Queensway/Derby Road.***

Abstention: Councillor Stanton

PL/110 **THE VARIATION OF CONDITIONS 3, 6 AND 29 OF PERMISSION REF. 9/2015/1063 (RELATING TO OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE ERECTION OF UP TO 70 DWELLINGS WITH**

**ASSOCIATED PUBLIC OPEN SPACE, SUSTAINABLE DRAINAGE AND LANDSCAPING) ON LAND AT SK2914 7590 ACRESFORD ROAD OVERSEAL SWADLINCOTE**

The Planning Delivery Team Leader presented the report to Committee updating Members on further consultation responses received from the National Forest and Parish Council, where the Parish Council raised concerns in relation to the connection of the proposed site to the village. The Planning Delivery Team Leader explained the design, layout, drainage and landscaping of the proposed site.

The Planning Delivery Team Leader advised that since the previous outline permission had been granted, a number of comments were raised in relation to ground conditions on the site. The Committee was informed that subsequent due diligence was undertaken by the Applicant where it was found that there were areas of concern. Members were advised that in order to address these concerns, the layout had to be rearranged. The Planning Delivery Team Leader advised that due to the extent of abnormal costs incurred by unforeseen ground conditions, the amount of affordable housing on the site would have to be reduced to 10%, as endorsed by the District Valuer.

Some members of the Committee shared disappointment over the reduction in the affordable housing allocation whilst recognising the necessary solution provided by the applicant to address the ground condition concerns.

**RESOLVED:-**

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

PL/111 **APPROVAL OF RESERVED MATTERS OF OUTLINE PERMISSION REF. 9/2015/1063 ON LAND AT SK2914 8297 ACRESFORD ROAD OVERSEAL SWADLINCOTE**

This application was impacted by the decision made on the previous Item. Following the decision made on the previous application, the Planning Delivery Team Leader sought delegated authority to amend the description and Conditions 1 and 6.

Some Members of the Committee sought clarification on the design, layout of the buildings and landscaping, requesting that the boundary hedge be retained.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), with delegated authority to amend the description to reflect the previous resolution on Item 1.2 of the Agenda and to adjust Conditions 1 and 6 to reflect the approved plans list and new footpaths within the site.***

PL/112 **CONVERSION OF EXISTING TIMBER FRAME BARN TO A DWELLING AT NUTWOOD UNNAMED ROAD LEADING TO ST BRIDES FARM STANTON BY BRIDGE DERBY**

The Planning Delivery Team Leader presented the report to Committee, explaining the proposal to convert the barn.

**RESOLVED:-**

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

PL/113 **THE ERECTION OF REPLACEMENT ENTRANCE GATES AT 94 LONDON ROAD SHARDLOW DERBY**

**RESOLVED:-**

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

PL/114 **PROPOSED TREE PRESERVATION ORDER 497 – LAND TO REAR OF 42 & 44 MAIN STREET, NEWTON SOLNEY**

The Planning Services Manager presented the report to Committee informing Members that the Council's Tree Officer had advised that the hedge included Lime and Oak trees.

Some Members questioned the need for a tree preservation order on a hedge, and were advised by the Planning Services Manager that latest planning practice guidance identified that trees in hedges should be considered for orders including those that have been allowed to grow in the hedge.

**RESOLVED:-**

***That the Tree Preservation Order be confirmed.***

Abstention: Councillors MacPherson and Stanton

PL/115 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

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

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

The meeting terminated at 7.40pm.

COUNCILLOR MRS L BROWN

CHAIRMAN

PLANNING COMMITTEE

27<sup>th</sup> November 2018

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

PL/116 **APOLOGIES**

Apologies for absence were received from Councillor Ford (Conservative Group) and Councillors Coe and Tipping (Independent / Non Grouped Member)

PL/117 **MINUTES**

The Open Minutes of the Meetings held on 25<sup>th</sup> September 2018 were taken as read, approved as a true record and signed by the Chairman.

PL/118 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/119 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/120 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting

to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/121 **APPROVAL OF RESERVED MATTERS FOR ACCESS, LAYOUT, SCALE, APPEARANCE AND LANDSCAPING OF OUTLINE PERMISSION REF. 9/2014/0888 IN SO FAR AS THE ACCESS ROUNDABOUT, SPINE ROAD, GREEN INFRASTRUCTURE, OPEN SPACE AND DRAINAGE ON LAND AT SK2819 1873 (SITE C) WILLIAM NADIN WAY SWADLINCOTE**

The Senior Planning Officer presented the report and informed Committee that updates had been received since the report's publication, namely the landscaping scheme had been revised with no objections from the National Forest. Delegated authority was being sought to secure the approval of final details of the surface water drainage scheme.

The applicant's agent attended the Meeting and addressed Members on this application.

Members raised concerns regarding lack of information of gas generation from the landfill and requested that the Planning Services Manager write to the County Highway Authority regarding revision of the speed limit on William Nadin Way.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), with delegated authority to approve final drainage details.***

PL/122 **THE VARIATION OF CONDITIONS 1 & 3 OF PLANNING PERMISSION REF: 9/2018/0503 (RELATING TO THE RETENTION OF A SUN CANOPY (REVISED SCHEME TO THAT APPROVED UNDER PERMISSION REF. 9/2017/1357) AT 11 THE GREEN WILLINGTON DERBY**

The Planning Services Manager presented the report to Committee.

An objector attended the Meeting and addressed Members on this application.

The Chairman read a statement submitted by Councillor Ford, Ward Member for Willington and Findern, commenting on the concerns raised by local residents regarding the impact of the structure, lighting and increase in noise. The Councillor requested that Committee give consideration for granting temporary permission for twelve months in order to address any issues prior to full permission being granted.

Other Members raised queries regarding the level of proposed lumination, placement of the lights, and raised concerns regarding the applicant's compliance to the original planning conditions and the possibility additional lighting would encourage anti-social behaviour. All matters were addressed by the Planning Services Manager.

**RESOLVED:-**

*That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), with the additional condition planning permission is granted on a temporary basis for six months once installed to monitor the effects of the lighting.*

PL/123 **THE FELLING AND PRUNING OF TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 132 AT WILSON CLOSE MICKLEOVER DERBY**

The Planning Services Manager presented the report to Committee.

**RESOLVED:-**

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

PL/124 **THE CROWN LIFTING OF FOUR SYCAMORE TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 65 ON LAND TO THE REAR OF GEORGE NEWBERRY PLACE CHURCH GRESLEY SWADLINCOTE**

The Planning Services Manager presented the report to Committee.

**RESOLVED:-**

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

PL/125 **PLANNING AND OTHER APPEALS**

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

9/2017/0196	Grove Close, Thuston, Derbyshire
9/2017/0797	Main Street, Repton, Derbyshire
9/2017/1296	Commonpiece Land, Cropper, Etwall, Derbyshire

PL/126 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

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

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

The meeting terminated at 6.55pm

COUNCILLOR MRS L BROWN

CHAIRMAN

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

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

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

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## 1. PLANNING APPLICATIONS

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2018/0621	1.1	Egginton	Etwall	21
9/2018/1069	1.2	Netherseal	Seales	39
9/2018/1376	1.3	Melbourne	Melbourne	47

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

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

**Item** 1.1

**Ref. No.** 9/2018/0621/OX

**Applicant:**  
**Mr A Cox**  
**Green 4 Developments**  
**The Barn**  
**Hopwell Hall**  
**Ockbrook**  
**DE72 3RW**

**Agent:**  
**Mr Ian Mchugh**  
**Imch Planning And Development**  
**Consultancy**  
**20 Attewell Close**  
**Draycott**  
**DE72 3QP**

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS, LAYOUT AND SCALE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 8 DWELLINGS ON LAND AT SK2628 6240 DUCK STREET EGGINTON DERBY**

**Ward:** **ETWALL**

**Valid Date** **05/07/2018**

**Reason for committee determination**

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

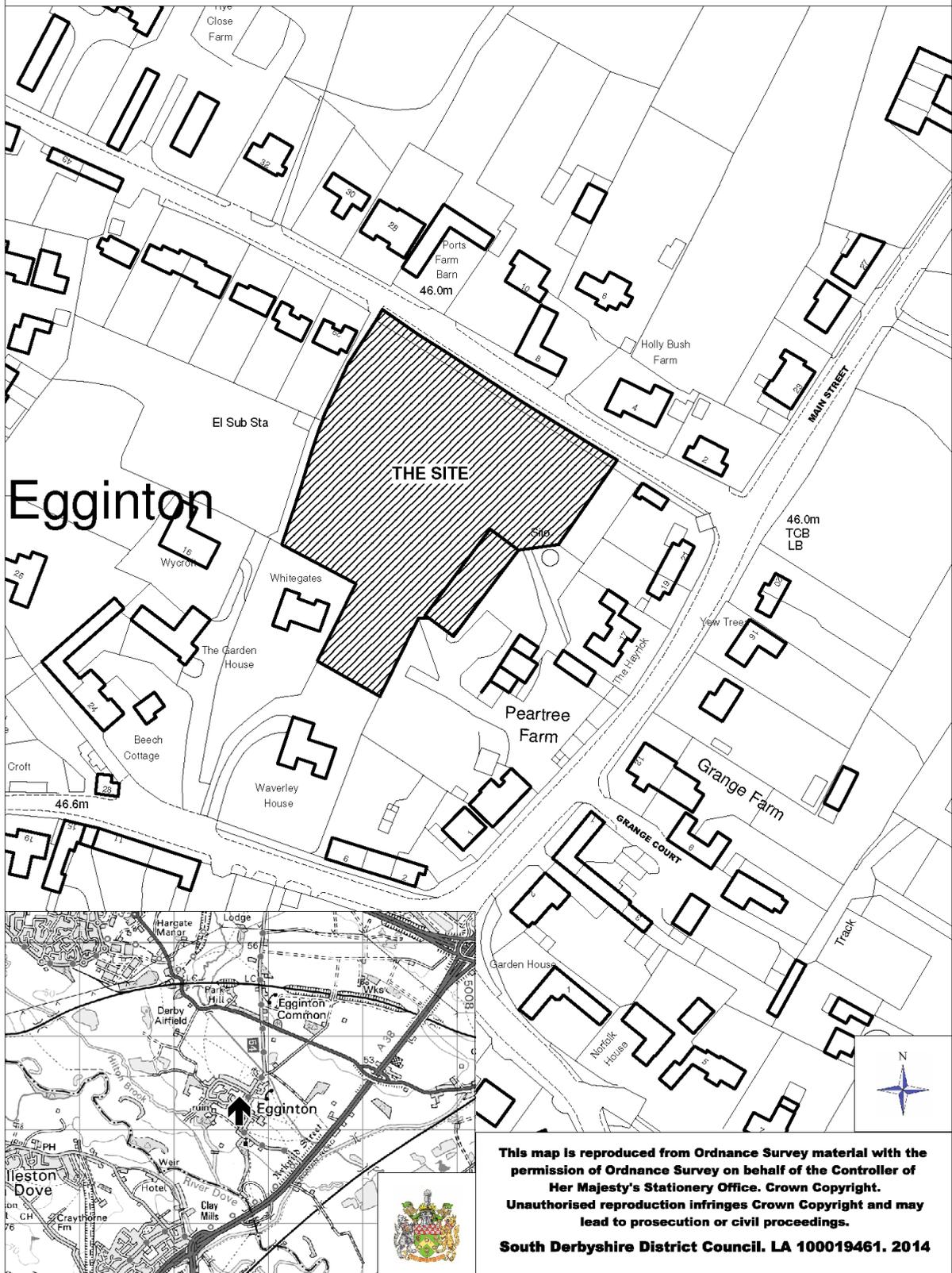
**Site Description**

The 0.62 hectare site is located within the centre of the village of Egginton. It is a grassed field and an existing Dutch barn is located adjacent to the south eastern boundary. Mature trees and hedgerow screen the site from the road frontage. An individual Ash tree on the north eastern corner together with a group of nine Ash Trees along the Duck Street frontage to the north-west are protected by Tree Preservation Order (TPO) No. 498.

**Proposal**

Outline permission is sought for 8 dwellings with access, layout and scale to be agreed at this stage. The proposal would take the form of a detached farmhouse with a barn complex and central courtyard. The access would be located in the north eastern corner and would curve round to the front of the farmhouse into the courtyard area to the west and rear. The courtyard would be framed by a mix of barn-style attached dwellings forming an 'L' shape ranging in scale from single storey adjacent to Duck Street, to one-and-a-half storey and two-storey adjacent along the western range, and single to one-and-a-half storey along the southern range. A detached one-and-

9/2018/0621 - Land at SK 2628 6240 Duck Street, Egginton, Derby (DE65 6HG)



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a-half storey dwelling is proposed beyond the southern range, accessed through a covered access between dwellings. A large open, green space to the front of the farmhouse and courtyard would allow for existing trees and hedgerow fronting Duck Street to be retained.

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

A Flood Risk Assessment (FRA) states the site is classified as within Flood Zone 2 and 3 'medium' and 'high' risk. However, the risk of flooding, associated with Egginton Brook, is reduced by flood defences. Flood risk from sources such as surface water, groundwater and reservoirs are generally considered low probability and secondary to fluvial flooding under design flood conditions. Sustainable Drainage Systems (SuDS) would be used to manage surface water runoff. The proposal restricts built development to within Flood Zone 2. The proposed highway access is within Flood Zone 3 (high risk), as are surrounding areas of existing highway. The report estimates that only 50% of the 0.64ha site (equating to 0.32ha) would be occupied by built surfaces such as dwellings and hardstanding, increasing to 0.35ha over time as a result of urban creep (assumed as 10% of development area). The remaining site area would be formed by garden curtilages. It is advised that dwellings be restricted to ground which is above the 46.6m AOD existing site contour. Preference is for infiltration drainage systems to serve the proposed development. If infiltration drainage is not viable then site wide surface water attenuation SuDS would be required with a restricted rate of discharge to public sewer network. Permeable surfacing is shown for the part of the access within Flood Zone 3.

The Heritage Statement provides details of the Grade II listed Village Pinfold or Pound, situated on the corner of Main Street and Duck Street. It is a small rectangular shaped stone structure with a gate on one side, listed in 1952. The statement considers that as there is no recorded functional or formal relationship between the application site and the Pound, and the closest proposed dwelling would be some 30m from the Pound with existing intervening buildings and structures minimising any visual impact; it draws the conclusion that the proposal would not be harmful to the significance of the listed building and its setting, either directly or indirectly.

The Tree Survey includes a survey of four individual trees and two group of trees. The trees in the survey are mainly ash, with a single horse chestnut and a group of hawthorn. Three of the individual trees including the ash covered by the TPO have been categorised as B (trees of moderate quality). One individual tree and one group have been categorised as C (trees of low quality). A group of ash trees covered by TPO have been classed as B (trees of moderate quality). None of the trees would need to be removed in order to facilitate the construction of the development. Some works are recommended on trees that overhang the site and protective fencing would be required to protect the trees during construction.

### **Planning History**

9/2000/0395      Outline application for the erection of twenty dwellings - refused July 2000 and dismissed at appeal February 2001

9/1999/0493 Outline application for the erection of 23 detached houses –  
withdrawn December 1999

## **Responses to Consultations**

The Environment Agency (EA) states the revised layout plan shows the dwellings to be in the lower risk area of the site and as such they have no objection subject to a condition requiring finished floor levels set no lower than 47.5m Above Ordnance Datum (AOD) and development restricted to Flood Zone 2.

The Lead Local Flood Authority (LLFA) has no comments and refers to their standing advice.

The Council's Drainage Officer acknowledges the surface water issues in Egginton due to the system having very little fall and the area having a high water table. Both Severn Trent and the EA have in the past improved outfalls close to the flood banks.

The County Council's Emergency Planning Officer has reviewed the FRA, concurs with the recommendations and confirms that future residents would have to sign up to receive flood warnings which, with the timescales involved, should provide sufficient time to evacuate through Flood Zone 3, leaving the village to the north. A personal flood plan is recommended with reference to the flood plan for Derbyshire.

Severn Trent Water has no objections subject to a drainage condition and informative regarding access to the pumping station.

The Development Control Archaeologist recommends a condition requiring a written scheme of investigation due to possible medieval ridge and furrow.

The Tree Officer concurs with the tree assessment and supports the use of protection during the course of construction.

The Highway Authority has no objections subject to conditions in respect of provision of a site compound during construction, access visibility sightlines, the width of the access, access gradient, parking and bin stores.

## **Responses to Publicity**

Egginton Parish Council has made the following comments:

- a) The proposal is not in accordance with the Policy H1 as it is not considered limited development within the settlement boundary;
- b) The Local Plan defines the village as unsustainable due to its lack of services for residents and no public transport links;
- c) The site is a valuable open space in a prominent location reflecting the rural and farming heritage of the community;
- d) The Inspector in the 2001 appeal considered the openness of the site to make a valuable contribution to the character and form of the village;

- e) In relation to Policy BNE4, the proposal would have an unacceptable impact on landscape character, visual amenity and sensitivity which is not sufficiently mitigated;
- f) The village suffers from flooding due to an inadequate storm drainage system which was evident in the flood event in 2012 and is not adequately dealt within the FRA;
- g) The Inspector noted in the appeal decision that the surface water drainage system was unsatisfactory and had insufficient capacity;
- h) A surface water drainage scheme should be provided at outline stage and not as a condition and the application refused until a site investigation is undertaken;
- i) Flash flooding on Main Street and Duck Street would be made considerably worse by the development;
- j) Increased traffic would increase the use of already dangerous junctions;
- k) If permission is granted suggested conditions would be the scale of dwellings should be in scale with existing properties, density should match the surrounding area and design should incorporate local design features; and
- l) Section 106 monies should be sought for school places, maintenance of replacement fencing on Etwall Road / Carriers Road crossroads required by Derbyshire County Council to improve visibility, 2 affordable houses, a pumping station and protection of existing trees and hedges.

25 representations of objection have been received, raising the following concerns:

- a) Planning permission was refused for 20 dwellings in 2000 which was dismissed at appeal due to the principle and the adverse effect on the character and appearance of the area;
- b) The Inspector in the appeal mentions the 'loss of openness of the appeal site' and this remains relevant;
- c) The proposal is over development for the size of the site;
- d) Insufficient parking has been provided;
- e) The village does not have the facilities and school places to accommodate the new residents;
- f) There should be consideration of whether the existing sewer system has capacity;
- g) New residents would increase traffic in the village as due to the lack of facilities residents are reliant on the car to access facilities;
- h) There is no bus route serving the village;
- i) The site enhances the character of Duck Street and adds to the rural feel of the village;
- j) The inspector in 2001 considered that the 'openness of the site makes a valuable contribution to the character and form of the village';
- k) The site offers a distinctive visual break within the village;
- l) The site is maintained and continues to be used for animal grazing;
- m) Egginton is prone to localised flooding due to a high water table and covering this site with built development would exacerbate this problem;
- n) Flood events cause the access to the village to be blocked;
- o) The surface water drainage system along Duck Street and Main Street is poor and the sewage pumping system for foul is at capacity with a flood event in 2012;

- p) One dwelling is proposed within Flood Zone 3 in conflict with Policy SD2;
- q) The village has been downgraded in terms of sustainability in the Local Plan as there is no bus route, shop, mobile library or post office;
- r) The Local Plan suggests that the village should accommodate 15 affordable dwellings and not luxury 4 and 5 bedroom dwellings;
- s) Loss of privacy to No. 21 Main Street, Holly Cottage and Holly Bush Farm, Duck Street;
- t) The application does not mention protection of hedgerows, trees or wildlife;
- u) Local open spaces are to be protected;
- v) The site has a higher land level than Duck Street;
- w) There are no cycle routes or footways to Willington from the village;
- x) The other open space within the village known as the 'education field' should be considered instead;
- y) Loss of the hedgerow as a haven for birds and wildlife, the barn has nesting swallows and the field is used by bats;
- z) Dwellings should be sympathetic to the 'village atmosphere' of low density development;
- aa) The Inspector found that the Elmhurst / Dove Grove development had eroded some of the traditional character of the village;
- bb) The use of modern dormers are not traditional features;
- cc) The proposal would change the rural feel of the footpath along the north western boundary; and
- dd) The proposal would have an unacceptable impact on the landscape character contrary to Policy BNE4.

2 representations in support have been received, raising the following comments:

- a) The proposal would revitalise a scruffy field into a new cul-de-sac of attractive properties;
- b) The local school is not at capacity and new housing would ensure it remains open; and
- c) Flood defences have been improved and as such insurance premiums have reduced.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport); and
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

## National Guidance

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

## Local Guidance

- Design Guide Supplementary Planning Document (SPD)

## Planning Considerations

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

- Principle of development;
- Layout, scale and character
- Highway safety and capacity;
- Trees and biodiversity;
- Flood risk and drainage; and
- Residential amenity.

## Planning Assessment

### Principle of Development

The site lies within the settlement boundary of Egginton, which is a rural village in LP1 Policy H1. This policy states that “*development of a limited nature will be allowed within the settlement boundary where applicable or adjacent to as exceptions or cross subsidy site as long as not greater than 15 dwellings*”.

As the site located within the settlement boundary and is considered to constitute development of a limited nature it complies with this policy. The only development that may be acceptable adjacent to the settlement boundary would be for exceptions or cross subsidy sites incorporating either 100% affordable dwellings or a percentage of affordable with a maximum of 15 dwellings. This does not mean that only affordable dwellings are acceptable within the village as stated in objections. There is a principle of limited housing development within the village of which this proposal complies.

The explanation for Policy H1 states that the hierarchy is based on directing larger development sites to those areas which have a higher level of everyday services and facilities. This was informed by an assessment of services and facilities within the settlements and Egginton was considered to fall within the criteria for a rural village.

### Layout, scale and character

LP1 Policy BNE1 requires development to create places with a locally inspired character that respond to their context, be visually attractive and respect historic views and vistas. The proposed layout is considered to reflect the character of the rural village which is dominated by farm complexes made up of a larger property with

ancillary buildings close to the road frontages. The detached dwelling takes the character of a farmhouse with the lower scale dwellings providing enclosure similar to traditional barns framing a central courtyard. Existing trees and hedging would be retained along Duck Street and an open frontage to the development retained within the north eastern corner and along this frontage. The proposal would therefore compliment the rural character of the village through the farmstead layout and by setting the greater scale development back into the site with single storey elements close to the road frontage. By retaining the openness in the frontage the visual link with open land to the north east, across Main Street, would not be lost.

The layout is designed as such to take account of the Inspector's comments in the 2001 appeal as development within the village has not changed significantly since this decision. The Inspector referred to character within the village as having "little development of depth" with "glimpses of the surrounding countryside" contributing to the rural feel of the village. This 'bleeding' of the agricultural landscape into the heart of the village is integral to the character of it. The decision confirms the "openness of the appeal site makes a valuable contribution to the character and form of the village" and considers the site to be prominent with a long frontage on Duck Street and mentions the traditional arrangement of farms within the settlement that retained agricultural land next to farm yards. The proposal in taking this more traditional form has taken on board the Inspector's view of the more modern development that was considered to have "eroded some of the traditional character of the village", and it should be noted that the appeal decision related to a dense, suburban scheme of 20 two-storey dwellings – materially different to that now presented.

The proposed scale takes account of the scale of existing adjacent dwellings. Single storey development on the frontage respects the existing properties opposite on Duck Street of the same scale. One and half storey properties are proposed adjacent to the southern and western boundaries where adjacent properties are bungalows and dormer bungalows. These scales have been assessed taking account of existing and proposed ground levels as required by the EA and are considered acceptable. A condition requiring finished floor levels to be submitted with any reserved matters application is considered necessary, so to ensure this is 'fixed' early on in the detailed design stage. The ridge and eaves heights reflect the three scales proposed with the prominent farm house style property having the highest ridge height at 9m, the impact of which would be minimised by both the distance from the site frontage, its massing and the retention of existing trees and hedging.

The layout and scale is considered to respond to its context and retains the openness of the site in keeping with the character of this rural village, in accordance with Policy BNE1 and the Design Guide.

#### Highways safety and capacity

LP1 Policy INF2 requires appropriate provision for safe and suitable access to and within a development. The Highway Authority considers sufficient visibility can be achieved at the access of 2.4m x 43m in both directions. A plan has been produced to show that the visibility splay can be achieved without any impact on the protected trees on the frontage. Suitable access, parking and manoeuvring can be achieved, by way of condition where necessary, in accordance with Policy INF2.

## Trees and biodiversity

Policies BNE4 and BNE7 requires proposed development that could affect trees to demonstrate that the layout and form of the development has been informed by appropriate arboricultural surveys, shading impacts have been considered and appropriate measures secured to ensure adequate root protection and buffers around trees, woodland and hedgerows.

An individual Ash tree on the north eastern corner together with a group of nine Ash Trees along the Duck Street frontage are protected by a TPO and all these trees are to be retained. Impacts during construction have been considered and adequate mitigation proposed in accordance with Policy BNE7.

## Flood Risk and drainage

LP1 Policy SD2 requires development in areas at risk of flooding to be resilient to flooding through design and layout and to not increase flood risk to other properties or surrounding areas. The site is mainly located within Flood Zone 2, with part of the access in Flood Zone 3. However, Egginton does benefit from flood defences along Egginton Brook. Development on the site has been limited to Flood Zone 2 with the access in the north eastern part within Flood Zone 3. A sequential test is therefore not required. Existing site levels range from 47.6m AOD (Above Ordnance Datum) in the north western corner and 46.2m AOD in the eastern corner. The EA has reviewed the FRA and has no objections to the development provided that finished floor levels are set no lower than 47.5m AOD together with flood resident design features being incorporated. The Emergency Planning Section has been consulted and have reviewed the FRA and concurs with its recommendations in the flood evacuation section, such as signing up to flood warnings and preparing a personal flood plan. This can be secured by a condition.

The local concerns regarding surface water flooding do, however, require particular attention given the known problems the village suffers during period of high water/rainfall. The surface water drainage system for Egginton ultimately discharges to the Egginton Brook where, if it itself is flooded, this system backs up and results in flooding to roads and so forth within the defended envelope of the village. The concerns raised locally, and observed by the Council's drainage engineer, indicate that confidence is required prior to determination that suitable Sustainable Drainage Systems (SuDS) can be provided on the site, and that they would be able to operate under flood conditions without worsening the existing problems.

Normally, use of SuDS would be secured by the Building Regulations on a scheme of this size, but ground conditions are understood to be difficult, with a high water table in particular. The suggestion of using infiltration is therefore noted to be of concern if deferring this matter to a later stage. Nonetheless, a technical solution is likely with on-site attenuation and flow controls normally capable of throttling the rate at which total surface water flows from the site across its boundary to enter the public sewerage system. A conditional approach is thus appropriate at this stage, and accords with the NPPF in promoting the use of conditions to make otherwise unacceptable development, acceptable. Whilst the LLFA has not raised concern in this respect and advances the following of their standing advice which also promotes

this approach; at the time of writing, the applicant is preparing a more detailed drainage design for the development in response to the concerns raised. This will be verbally reported to the Committee at the meeting.

Therefore, noting that the statutory and technical consultees have reviewed the proposal and consider that residential development can be accommodated on site with sufficient mitigation to reducing the risk of flooding to existing and prospective occupiers and property, the proposal is considered to accord with Policy SD2.

### Residential amenity

LP1 Policies SD1 and BNE1 require the impacts of the development on the residential amenity of neighbouring properties to be assessed with the Design Guide stipulating separation distances between windows. Whilst a full assessment is not possible at this stage as the window positions are not known, the layout indicates that the separation distances could be met in order to protect residential amenity. A full assessment would be carried out at the reserved matters stage when all the details of the proposed properties are known. Therefore, in principle the proposed layout would not have a significant adverse impact on residential amenity in accordance with the requirements of Policies SD1 and BNE1.

### Summary

To conclude, the proposed is considered limited development within this rural village in compliance with policy H1 with the layout and scale reflecting the character of the area and retaining the open character of the site – linking it with its agricultural origins beyond the village. The farmhouse with its ancillary buildings, or barn, design concept reflects the character of the village which is dominated by this type of development. Existing trees along the site frontage would be retained and sufficient mitigation in terms of flood risk could be achieved. The proposed access is considered adequate in terms of visibility and the layout indicates sufficient parking and turning can be accommodated.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. Approval of the details of the appearance and landscaping (herein referred to as the 'reserved matters') shall be obtained from the Local Planning Authority in writing upon an application made in that regard before any development is commenced.

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

2. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and

(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

3. 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 provided as part of the reserved matters required under condition 1. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels.

Reason: To ensure the visual impact of the development, as well as the effect on adjoining occupiers, is acceptable.

4. The layout, scale and access to the development hereby permitted shall be carried out in accordance with plans/drawings numbers A801, A802, A803 and A400, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

5. The development shall be carried out in accordance with the Flood Risk Assessment (FRA) ref. Revision A, dated 13 October 2018 compiled by Encon Associates Ltd, and the following mitigation measures:

- Finished floor levels shall be set no lower than 47.5 m above Ordnance Datum (AOD) as detailed in section 8.5 of the flood risk assessment (FRA) referenced above.

- Flood resilient design shall be incorporated to no lower than 47.8m above Ordnance Datum (AOD) as detailed in section 8.8 of the FRA referenced above.

- All residential development within the site is restricted to Flood Zone 2 as detailed with section 11.2 and Appendix B of the FRA referenced above.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants; to reduce the consequence of flooding and facilitate a quicker recovery in the event of an extreme flood.

6. Throughout the construction phase of the development space shall be made available within the site curtilage for the storage of plant and materials, site accommodation, parking and manoeuvring of site operative's vehicles and goods vehicles.  
Reason: In the interests of highway safety.
7. Before any works involving the construction of any dwelling commences a new vehicular and pedestrian access shall be created to Duck Street in accordance with the approved plans/drawings. The new access into the site shall be provided with visibility sightlines of 43m in both directions, measured to the nearside carriageway edge from a point 2.4m back from the nearside carriageway edge and centrally in the new vehicular access, the area forward of which shall be cleared of any obstruction exceeding 600mm in height and thereafter maintained clear of any obstruction throughout the life of the development.  
Reason: In the interests of highway safety.
8. The access driveway shall have a minimum width of 4.8m over its entire length, plus an additional 0.5m where immediately bounded by a wall, fence, hedge or similar enclosure.  
Reason: In the interests of highway safety.
9. The gradient of the new access shall not exceed 1:20 for the first 5m into the site as measured from the highway boundary.  
Reason: In the interests of highway safety.
10. Prior to the first occupation of any dwelling, a parking scheme incorporating no less than 2 vehicles per dwelling shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.  
Reason: In the interests of highway safety.
11. A bin collection point shall be provided within the site adjacent to the access for placing and storage of refuse and recycling bins on the relevant collection day(s). No bins or other items shall be stored on this collection point on other days.  
Reason: In the interests of highway safety and in the interest of the visual amenities of the area.
12. Before any works involving the construction of any dwelling commences a scheme for the disposal of foul water shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include, where necessary, details and specifications of any on-site pumping equipment required to ensure the safe and efficient operation of the system. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of pollution control.
13. Prior to the occupation of any of the dwellings a personal flood plan as detailed in the FRA dated 13th October 2018 ref. A3701 Rev A shall be submitted to and approved in writing by the Local Planning Authority and

thereafter implemented and maintained in accordance with the approved details for the life of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants; to reduce the consequence of flooding and facilitate a quicker recovery in the event of an extreme flood.

14. No construction of a building or hard surface shall commence until a detailed assessment to demonstrate that the proposed destination for surface water, assessed across the site as a whole, accords with the hierarchy in paragraph 80 of the planning practice guidance (or any revision or new guidance that may replace it) has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include a full understanding of the water table and any springs within the site and any associated mitigation requirements, and demonstrate, with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

i) into the ground (infiltration);

ii) to a surface water body;

iii) to a surface water sewer, highway drain, or another surface water drainage system;

iv) to a combined sewer.

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

15. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with Defra non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first use/occupation of a building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

16. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory

undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by a Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 15. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

17. a) No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has 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 for post investigation assessment.
  - iii. Provision to be made for analysis of the site investigation and recording.
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation.
  - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, noting that unacceptable impacts would likely arise if details were not agreed and/or implemented prior to development commencing.

18. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access,

and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts.

#### Informatives:

1. The County Flood Risk Team advises:
  - Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
  - Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
  - The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
  - Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
  - Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.
2. The Highways Authority advises:
  - a. In order to achieve the visibility sightlines at the proposed accesses, much of the site frontage will need to be cleared including the street light (No.

42280) which will need to be relocated in accordance with details agreed with Derbyshire County Council's Street Lighting engineers.

b. The site application site is located adjacent to a Public Right of Way (Footpath 1 in the parish of Egginton). The rights and safety of users of the Footpath will need to be protected at all times.

3. Severn Trent Water advise that although their statutory sewer records do not show any public sewers within the site, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and the developer is advised to contact Severn Trent Water to discuss their proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. In addition, there is a pumping station close to the site and any new development must not restrict their access to the Sewage Pumping Station (SPS). Severn Trent Water will require free access to the SPS at all times in order to complete any programmed routine maintenance tasks and also for any emergency reactive visits in case of failure. Please note that due to the close proximity of the proposed new development the occupant may experience noise and/or smell pollution. In order to minimise disruption to any future occupant(s), they advise that all habitable buildings are constructed a minimum of 15 metres from the curtilage of the SPS compound.

4. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.

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

6. 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.

7. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain

the roads in the vicinity of the site to a satisfactory level of cleanliness.

8. The SuDS hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.

9. The applicant/developer is advised to liaise with the Local Planning Authority prior to submitting details of reserved matters for approval. It is strongly encouraged that, in addition to the requirements set out in any conditions, adequate details are supplied so to negate the need for further conditions upon approval. For example, details and locations of boundary treatments and species and size for soft landscaping should be provided pursuant to matters of landscaping, whilst details and/or samples of facing and surfacing materials and details of porches, rooflights, verges, eaves, cills and lintels should be provided pursuant to matters of appearance. For all matters, attention should be given to the Council's Design Guide Supplementary Planning Document - in particular the relationship with surrounding properties and the quality of materials and finishes expected.

10. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:

- Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point per 10 spaces (or part thereof) where individual units have shared or courtyard parking;
- Commercial/Retail: 1 charging point for every 10 parking spaces;
- Industrial: 1 charging point for every 10 parking spaces;

To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

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

12. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site

can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.

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

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

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

Item 1.2

Ref. No. 9/2018/1069/FM

**Applicant:**  
Mr & Mrs D & M Smith  
C/O Planning Prospects Ltd

**Agent:**  
Mr Jason Tait  
Planning Prospects Ltd  
4 Mill Pool  
Nash Lane  
Belbroughton  
DY9 9AF

**Proposal:** REPLACEMENT DWELLING, NEW AND ALTERED ACCESS,  
GARAGE AND ASSOCIATED LANDSCAPING AT CORONATION  
VILLA CHURCH STREET NETHERSEAL SWADLINCOTE

**Ward:** SEALES

**Valid Date** 03/10/2018

#### **Reason for committee determination**

The item is presented to Committee as the application does not strictly accord with the Council's relevant Local Plan policy.

#### **Site Description**

The site is located outside of the village of Netherseal and consists of one detached two storey dwelling house with an established access and extensive garden area to the rear. The existing dwelling is set back behind a well maintained hedgerow. The site is located on fairly flat land and is highly visible on the approach into the village and the Conservation Area.

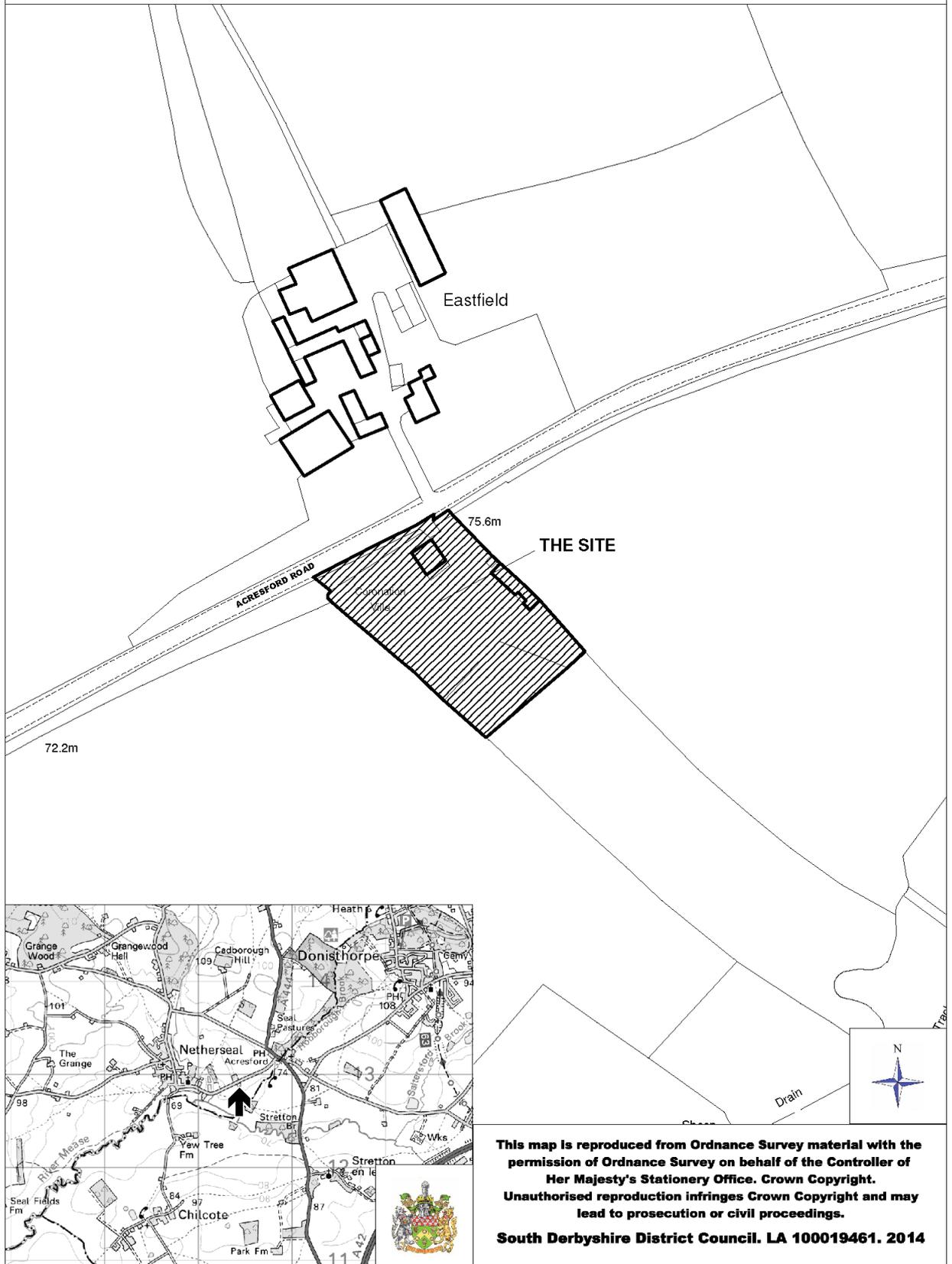
#### **Proposal**

Consent is sought for the demolition of the existing dwelling and the erection of a two storey replacement dwelling with a garage. A separate access would be created to be used in addition to the existing access to create a separate entrance and an exit at the site. The proposed dwelling would be set further back into the site than the existing dwelling and would be two storeys in height.

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

Design and Access Statement

9/2018/1096 - Coronation Villa, Church Street, Netherseal, Swadlincote  
DE12 8DF



The locality is defined by rural characteristics and predominantly red clay and sandstone with predominantly pitched roofs of around 45-55 degrees. An effort has been made to incorporate characteristics and features from the Conservation Area into the proposed dwelling. The existing dwelling could be extended under permitted development to a similar size and scale as the proposed dwelling. On the basis of this, the proposed dwelling would be suitable in terms of size, scale and appearance.

### Foul and Surface Water Drainage Strategy

The proposed application allows the opportunity to improve the existing foul and surface water drainage at the site, of which the foul water currently discharges to an outdated septic tank and surface water currently discharges to a nearby watercourse. The proposed works seek to separate the foul and surface water drainage and for the foul water to be discharged to sewage treatment plant which will ensure that the phosphate levels when discharging to the Mease would be lower than 2Mg/l and the surface water would be discharged using soak away options. This would substantially improve the current drainage arrangements at the site.

### Construction Management Plan

A temporary bund to a height of 0.5m in height shall be erected along the southern border of the site to act as a physical barrier to encapsulate and remove any potential for surface water exiting the site during the construction period. All materials and liquid storage shall be stored on an impermeable surface with drip trays to avoid materials and liquids going to ground.

### **Planning History**

There is no relevant planning history.

### **Responses to Consultations**

The County Highways Authority has raised no objections to the proposal subject to the inclusion of conditions that the proposed vehicular access shall be created in accordance with the approved plans and that the proposed parking area is laid out in accordance with the approved plans.

There have been no objections raised by Natural England provided that details of surface water drainage would be conditioned in accordance with the submitted details and that the works would be carried out in accordance with the submitted Construction Management Plan.

There has been no response received from Severn Trent.

### **Responses to Publicity**

There have been no letters/emails of objection received for the application.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (National Forest).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H24 (Replacement Dwellings in Rural Areas), H26 (Residential Gardens within Rural Areas), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design SPD
- Netherseal Conservation Area Character Statement

### **Planning Considerations**

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

- Principle of Development;
- Siting of the proposed dwelling;
- Visual Impact and size and scale;
- River Mease; and
- Highways.

### **Planning Assessment**

#### Principle of Development

Whilst the site is located outside of a designated settlement boundary for Netherseal, there is scope within policy H24 of the Local Plan for the demolition of an existing dwelling and the erection of a replacement dwelling. This would be provided that the proposed dwelling would not overly exceed the existing dwelling in size and bulk (including what could be extended under permitted development), that it would not be intrusive into the landscape and that the existing dwelling would not be of historic merit. On the basis of this, the proposed replacement dwelling would be broadly supported in principle by this policy.

#### Siting of the proposed dwelling

The proposed dwelling would be set further back into the site than the existing dwelling. Whilst it is acknowledged that this would not strictly accord with policy H24 of the Local Plan in that the proposed dwelling would not have substantially the same siting as the existing dwelling; it has been demonstrated by the applicant that the revised position of the proposed dwelling would have a more beneficial visual appearance and would improve the exiting access arrangement at the site. The revised position of the dwelling would also reduce the visual impact and dominance of the dwelling on the surrounding area and street scene.

Amended plans have been submitted which show the position of the proposed garage stepped back from the front building line and would be positioned along the side of the property. This would have a positive visual impact in that it would break down the continuous front building line of the proposed dwelling and it would appear less dominant when viewed from the highway.

The setting back of the proposed dwelling from the frontage would be more typical of the character of rural properties and would allow a larger degree of landscaping to the front which would soften the appearance of the proposed dwelling and would not be intrusive in the landscape. Therefore, the benefits that could be achieved by the alternative position of the proposed dwelling would be consistent with the principles of policy BNE1 and BNE4 of the Local Plan and would outweigh the deviation from the wording of the policy.

#### Visual Impact and size and scale

The proposed dwelling would be two storeys in height with an attic within the second floor. The proposed dwelling would be similar in terms of the footprint and scale of the existing dwelling when extended within its full permitted development rights. On the basis of this, the proposed dwelling would accord with the requirements of policy H24 of the Local Plan in that the size of the proposed dwelling would not exceed the size and bulk of the existing dwelling when extended through permitted development.

The proposed dwelling would be highly visible on the approach into the village of Netherseal via Acresford Road and into the Netherseal Conservation Area. The proposed dwelling has incorporated architectural features that are reflective of the key focal buildings within the Conservation Area and therefore, the proposed dwelling would make a positive contribution to the site and surrounding area. The stepped back appearance of the dwelling back from the highway would not be more intrusive into the landscape than the existing dwelling owing to the extent of landscaping that would be proposed to the front and would assist with allowing greater separation between the highway and the proposed dwelling which would lessen the visual impact of the dwelling. The site already benefits from extensive residential curtilage and the stepping back of the dwelling would therefore, not result in further residential encroachment out into the open countryside to the rear.

There is currently a modest hedgerow to the front of the property that is maintained. A substantial amount of this hedgerow would be removed to accommodate the visibility splay and the proposed plans and visuals show that the hedgerow would be replanted to the front and set further back into the site. This would mean that the

hedgerow would be replanted in line with the field hedgerows adjacent to the site and would have a positive visual impact. A condition would be attached for details of the proposed landscaping and the hedgerow replanting, to ensure that the extent of landscaping to the front of the proposed dwelling would be suitable and that there would be no urbanising visual impact.

### River Mease

The proposed development would consist of a replacement dwelling; there would be no increase in the number of units on the site and the proposed foul water would be discharged via a modern package treatment plant system. There would be no increase in the number of dwellings discharging foul water from the site and there would be no net increase in the level of harm to the River Mease. On the basis of this, there would be no obligation for the applicant to enter into a Unilateral Undertaking in accordance with the River Mease Developer Contribution Scheme.

The proposed surface water drainage for the site would be discharged through a soakaway system. A planning condition would be attached for formal details of the surface water drainage to be submitted as well as a condition for the works to be carried out in accordance with the submitted Construction Management Plan, as this would ensure that there would be no harmful impact on the River Mease during the construction period.

### Highways

There have been no objections raised by the County Highway Authority subject to conditions that the proposed access and parking area shall be constructed in accordance with the plans that have been submitted to ensure that the correct visibility splays can be accommodated. The additional access would be considered to improve the access arrangements at the existing property and ensure a safer entrance and exit to the site than the existing arrangement. The proposal would therefore, comply with policy INF2 of the Local Plan.

### Conclusion

The proposed replacement dwelling would result in the erection of a dwelling that would be reflective of the local character and vernacular and would be re-positioned to a more suitable location within the site to reduce the dominance of the dwelling within the wider area. It is therefore, recommended that the proposed replacement dwelling would be approved subject to conditions.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. PL001 Rev B, PL002 Rev C, PL003 Rev B, PL004 Rev B, PL005 Rev A, PL006 Rev A, PL007 Rev A, PL008 Rev A, PL009 Rev B, PL010 Rev A, PL011 Rev A, PL0012 Rev A and the submitted Construction Management Plan received on 3rd December 2019, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

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

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

4. Prior to the installation/laying out of any services, details of a scheme for the disposal of surface water shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: To ensure that it is possible to incorporate important flood avoidance features including construction levels before the development begins in the interests of flood protection.

5. Prior to their incorporation into the buildings, to which this permission relates, precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

6. Prior to the proposed dwelling being occupied, a new vehicular and pedestrian access shall be created to Acresford Road in accordance with the application drawings, laid out, constructed and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

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

Reason: In the interest of highway safety.

8. All hard and soft landscaping works, including the extent and type of hedgerow replanting shall be carried out in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development in accordance with the approved details.

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

9. Notwithstanding any details submitted or 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 shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the dwelling/building(s) are first occupied.

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

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

Reason: In the interests of highway safety.

#### Informatives:

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).
2. This application has been screened for an appropriate assessment given its proximity to the River Mease SAC.

**Item**            **1.3**

**Ref. No.**        **9/2018/1376/FH**

**Applicant:**  
**Mr James Duffield**  
**29 Windsor Avenue**  
**Melbourne**  
**Derby**  
**DE73 8FN**

**Agent:**  
**Mr James Duffield**  
**29 Windsor Avenue**  
**Melbourne**  
**Derby**  
**DE73 8FN**

**Proposal:**    **AMENDED SCHEME, INCLUDING ARBORICULTURAL REPORT, TO PREVIOUSLY APPROVED (9/2018/0558) FOR THE ERECTION OF DETACHED GARAGE AND WORKSHOP AT 29 WINDSOR AVENUE MELBOURNE DERBY**

**Ward:**            **MELBOURNE**

**Valid Date**    **17/12/2018**

**Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager as it involves an issue previously considered by members.

**Site Description**

The application site is detached house at the end of Windsor Avenue. The dwelling sits on a good sized plot of land and, in common with the neighbouring dwellings either site, with a substantial garden to the rear. There is a mature Silver Birch tree located within the garden of No 27 but only about 0.5 m away from the boundary with the application site.

**Proposal**

The proposal is a re-submission of scheme granted permission by Committee at its meeting on 04 September 2018 (9/2018/0558). The application proposes the erection of a single storey detached garage and workshop, to the rear of the host dwelling and situated along the western boundary. Although the proposal is identical the applicant has provided information in response to Condition 4, which relates to the Silver Birch in the adjoining garden, and the proposal effectively seeks removal of this condition.

**Applicant's supporting information**

9/2018/1376 - 29 Windsor Avenue, Melbourne, Derby DE73 8FN



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The applicant has submitted a report by an Arboricultural Consultant, the salient points and conclusions of which are as follows:

- The tree is mature tree with approximately ten to twenty years of safe useful life expectancy. Because of this the tree is classified (under British Standard 5837:2012 Trees in Relation to design, demolition and construction – Recommendations) as Retention Category C. BS5387 suggests that the retention of Category C trees should not be allowed to impose a constraint on development.
- Next to the Silver Birch is a Blue Atlas Cedar which is completely suppressed and is considered to be a more attractive tree. From an arboricultural perspective the most appropriate, attractive and sustainable solution is to retain the Blue Atlas Cedar and remove the Birch to either side of it. It is acknowledged, however, that these trees are the responsibility of their owner.
- If the Birch is to be retained it must be protected by ground matting to the appropriate specification. Pruning of overhanging branches may be required to implement the planning consent.
- Ideally a foundation design of ‘pile and beam’ should be used. The piles can be placed between any significant roots. If roots larger than 50mm are encountered and they cannot be avoided, they should be pruned with a hand saw leaving as small a wound as possible. Any exposed roots should be covered with damp wood chip or sharp sand to prevent drying out. The ground protection matting must be placed back over the roots as soon as any foundation construction has been completed.

In addition the applicant has provided a supporting statement to explore the implications of the Arboricultural Report:

- The Arboricultural Report was not available when the preceding application was considered.
- Whilst the tree has amenity value to No. 27 Windsor Avenue, properties on The Woodlands are subject to inconvenience from shedding of the tree all year round shedding of catkins, seeds, leaves, and branches from the tree that fall into neighbouring gardens.
- The minutes from the previous committee meeting documented that the tree in question was not worthy of a tree preservation order (TPO) and had only had limited amenity value. The Arboricultural Report refers to 10 to 20 years as the expected life of the tree.
- Engaging the professional services of a structural engineer to design a suitable construction for the proposal has revealed additional cost in the build. The complexity of the design has contributed to the cost rising from £400 to £2,000 for the design alone. The specialist foundation to accommodate the tree roots would cost around £25,000 plus VAT, not including any other build activities, which is not economically viable.
- In order to incorporate a pile and beam design, this would have to be built in a Ring Beam layout and would put an additional 300-400mm height on the

foundation, therefore increase the overall height above the approved 4.0 metres.

## **Planning History**

In respect of the tree issue, the previous report provided the following assessment:

*Impact on neighbouring silver birch tree; Concerns have been raised over the potential damage that the development could cause to an existing Silver Birch tree located within the rear garden of neighbouring property No.27 Windsor Avenue. The tree is not located within Melbourne conservation area and is not protected by a tree preservation order, therefore no consent from the council is required for any works to the tree and as such the applicant can remove any branches that overhang into the application site if required. Whilst the tree is not considered to be of sufficient amenity value to warrant its individual protection by virtue of a Tree Preservation Order it does have amenity value for the local area and as such it is considered appropriate to provide for some protection for the tree and its root system, and an arboricultural method statement is proposed as a condition.*

Condition 4 of the extant permission imposes this requirement:

*No development including preparatory works, shall commence until an Arboricultural Method Statement (AMS) has been submitted and approved in writing with the Local Planning Authority. The AMS should include details of all excavation within RPA, and include contingency plans for if large roots are encountered during this process (e.g. to hand dig to determine exactly where roots are growing and either prune them in accord with BS:5837 to facilitate the pilings or shift access points). Any approved measures shall be implemented in accordance with the AMS, whilst all protective fencing shall be erected prior to works starting on site and retained as such until the construction phase is completed. Foundations on the north-western part of this proposed build should be designed as to withstand any root intrusion that may latterly occur.*

## **Responses to Consultations**

None

## **Responses to Publicity**

Melbourne Civic Society comments that while a silver birch may not be of great value, it is not convinced that an applicant can/should demand that a neighbour's tree be destroyed to facilitate his new build.

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

- a) The description of the application includes reference to mezzanine, an element that was omitted from the original proposal. [Officer comment: the description of the application has been amended accordingly].

- b) The building would de-stabilise the Silver Birch in the garden to No 27, putting it and neighbours at risk.
- c) The foundation cost suggested by the applicant is not justified.
- d) The costs of tree removal recommended in the arboricultural report would cost more than the foundation.
- e) If tree removal is allowed the applicant could revert to the original higher 'mezzanine' proposal.
- f) The neighbouring Silver Birch has grown rapidly since the removal of vegetation in the application site garden.
- g) Arrangements have been made to prune the Silver Birch
- h) The amenity and wildlife value of the tree is appreciated locally.
- i) Leaf fall from the tree is a minor issue and quite typical of areas where there are trees.
- j) Vegetation in the neighbouring garden was removed to enable the applicant to maintain existing buildings. The vegetation would be a preferable outlook from the neighbouring windows.
- k) Building work could result in encroachment onto neighbouring property.
- l) There is concern that the building could be used for business purposes as vehicles come and go.
- m) The applicant's financial justification should not be taken into account in considering the planning necessity for the tree protection measures applied to the preceding permission.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development), BNE7 (Trees, Woodland and Hedgerows)

### **Emerging Policies**

The relevant policies are:

- Melbourne Neighbourhood Development Plan (NDP).

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Design and impact on the street scene
- Effect on neighbours
- Parking
- Tree

## **Planning Assessment**

### Design and impact on the street scene

The proposal remains unchanged from the extant permission and thus remains compliant with policies BNE1 and H27.

### Effect on neighbours

With the exception of potential loss of the Silver Birch next door the impacts on neighbours remain as previously considered. The presence or not of the tree does not materially alter consideration of residential amenity and the proposal remains in accord with SPD Policy H27.

### Parking

The proposal remains unchanged from the extant permission and thus remains compliant with Policy INF2.

### Tree

Given the context of the extant permission, the substantive issue is whether, in the light of the new evidence provided through the arboricultural report, it is reasonable to sustain the requirements of Condition 4 attached to planning permission 9/2018/0558.

Whilst it was previously considered desirable to minimise damage to the tree by deploying an Arboricultural Method Statement it is apparent from the arboricultural report that, because of the size of the tree and its very close proximity to the boundary, a substantial area of the building's footprint would need to accommodate specialist foundations.

Whilst the costs stated by the applicant are estimates, it is clear that they will be significantly higher than for a conventional strip foundation.

In the light of the recommendations of the Arboricultural Report, and given that the tree is not worthy of Tree Preservation Order, it is considered that the likely costs associated with deployment of an effective Arboricultural Method Statement would be disproportionate and the applicant's request is therefore reasonable on balance.

There may be civil legal issues that may need to be resolved between the applicant and the tree's owner but these are not central to the planning merits.

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

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawings ref. EDS\_0604\_01 Rev B and EDS\_0604\_02 Rev B, received with the application; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The garage hereby approved shall only be used for purposes incidental to the enjoyment of the dwelling known as 29 Windsor Avenue, Melbourne, DE73 8FN.  
Reason: To safeguard the amenities of nearby occupiers.
4. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.

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

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>	<b>Page</b>
9/2018/0428	Hatton	Hatton	Dismissed	Delegated	55
9/2018/0567	Hartshorne	Woodville	Allowed	Delegated	57
9/2018/0972	Burnaston	Etwall	Dismissed	Delegated	59
9/2018/0981	Willington	Willington & Findern	Allowed	Delegated	62



## Appeal Decision

Site visit made on 2 January 2019

by **Paul Cooper MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2019

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**Appeal Ref: APP/F1040/W/18/3208693**

**Hatton Fields Cottage, Sutton Lane, Hatton Fields, Derby DE65 5GQ**

- 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 & Mrs Haslam against the decision of South Derbyshire District Council.
  - The application Ref 9/2018/0428, dated 6 July 2017, was refused by notice dated 15 June 2018.
  - The development proposed is to add a new dedicated driveway to the property.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal property is in a rural location, set back from Sutton Lane and accessed via a private drive with a number of other properties.
4. The appeal proposal seeks to create a new dedicated access, taken across an existing paddock under the ownership of the appellants.
5. The locality is made up of isolated properties, with single access points dotted along Sutton Lane. The new access and driveway would be located close to the existing access that serves the properties, and the construction and installation of a new access and driveway would create a strident, domestic appearance that would harm the character and appearance of the area. There is limited vegetation or other landscape features that would mitigate the effects of the proposal which would clearly be visible on the approach along Sutton Lane in either direction.
6. In addition to this, no evidence has been presented to me to demonstrate that there is a genuine need for the access and driveway, or that the existing access is not available for use. As a result, I find that the installation of a new access and driveway would introduce a residential, domestic feature into this rural location.

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7. Therefore, I find that the proposal would be harmful to the character and appearance of the area, and as a result, is contrary to Policies H26 and BNE5 of the South Derbyshire Local Plan Part 2 (2017) which collectively deal with changes to residential uses in rural areas and that proposals should not unduly impact on landscape character.

**Other Matters**

8. I have noted the comments of both parties regarding the status and proximity of Derbyshire Historic Environment Record HER 20913. Nonetheless, the harm that I have identified to the character and appearance of the area from the appeal proposal means that I have no requirement to address the matter further.

**Conclusion**

9. For the reasons set out above, the appeal is dismissed.

*Paul Cooper*

INSPECTOR



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## Appeal Decision

Site visit made on 9 January 2019

by **F Rafiq BSc (Hons), MCD, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> February 2019

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**Appeal Ref: APP/F1040/D/18/3215911**

**87 Woodville Road, Hartshorne, Swadlincote, DE11 7EX**

- 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 Mrs Lisa Hall against the decision of South Derbyshire District Council.
- The application Ref 9/2018/0567 dated 24 May 2018 was refused by notice dated 31 October 2018.
- The development proposed is a loft conversion with dormer windows, single rear extension.

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### Decision

1. The appeal is allowed and planning permission is granted for a loft conversion with dormer windows, single rear extension at 87 Woodville Road, Hartshorne, Swadlincote, DE11 7EX in accordance with the terms of the application, Ref 9/2018/0567, dated 24 May 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: EDS\_0597\_05 Revision H, EDS\_0597\_06 Revision H, EDS\_0597\_07 Revision G, EDS\_0597\_08 Revision H, EDS\_0597\_09 Revision H.
  - 3) 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.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host dwelling and the area.

### Reasons

3. The appeal property is a bungalow dwelling which is situated on the eastern side of Woodville Road. There are a variety of dwelling types and styles in the area surrounding the appeal site, which include detached, semi-detached and bungalow properties. This variance extends to the roof forms with gable and hipped roofs, alongside a range of roof pitches also being evident in the
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surrounding area. The properties on the eastern side of the road are however generally set back behind grass verges and front driveway and gardens areas. This contributes to a pleasant and spacious residential character.

4. The proposal includes extensions at the current roof level to provide additional accommodation. The development would result in the property having a gable feature to the front, and dormers to the front and rear. To one side of the property, the roof would adopt a hipped roof form. The Council have raised concerns that this would result in the proposal being unbalanced and not visually sitting well with its neighbours. I acknowledge that hipped roofs predominate on the appeal and its immediate neighbouring property's, but the built form of properties in the wider area is more divergent, including those buildings directly opposite the appeal site, which results in a varied character.
5. The proposal would result in the appeal property having a hipped roof form to its southern side. However, given that it would also incorporate a front gable feature to the other side, with part of the roof over this feature having a slope in the other direction to the southern hip, I do not consider the appeal property would appear unduly unbalanced. The dormer proposed on the front, although a sizable addition, would be set down from the ridge and have a pitched roof form. As such, I do not therefore consider that these elements of the development would have an adverse impact on the character and appearance of the host dwelling or the area.
6. I therefore conclude that the proposal would not unacceptably harm the character and appearance of the host dwelling or area. As such, it would not be contrary to Policy BNE1 of the South Derbyshire Local Plan Part 1 or Policy H27 of the South Derbyshire Local Plan Part 2, which seek, amongst other matters, new development to be visually attractive. It would also not be contrary to the *South Derbyshire Design Guide* Design Supplementary Planning Document, which seeks, amongst other matters, to improve the design quality of development or Section 12 of the National Planning Policy Framework.

#### **Conclusion**

7. For the reasons given above and having taken into account all other matters raised, I conclude the appeal should be allowed.

#### **Conditions**

8. The Council have suggested a number of conditions. I consider the standard implementation condition and a condition for the development to be carried out in accordance with the approved plans to be necessary for the avoidance of doubt and in the interests of proper planning. A condition requiring matching materials is also necessary in the interests of the appearance of the host dwelling and the area.

*F Rafiq*

INSPECTOR



## Appeal Decision

Site visit made on 24 January 2019

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> February 2019

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**Appeal Ref: APP/F1040/D/18/3218936**

**Rayworth House, Grassy Lane, Burnaston, Derby DE65 6LN**

- 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 James Croft against the decision of South Derbyshire District Council.
  - The application Ref 9/2018/0972, dated 7 September 2018, was refused by notice dated 2 November 2018.
  - The development proposed is demolition of existing garage/outbuilding and erection of domestic garage to the rear of the house.
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### Decision

1. The appeal is dismissed

### Preliminary Matters

2. The address on the original application form differs to that on the appeal form. The appellant's statement indicates that the name of the dwelling has been legally changed to Rayworth House. For the avoidance of doubt, it is this I have used in the header above.
3. In Part E of the appeal form it is stated that the description of development has not changed from the original application, but nevertheless a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

5. The appeal site forms part of the grounds of a large detached dwelling. The relatively intensive commercial activity fronting Grassy Lane soon gives way to more sporadic residential, commercial and agricultural uses. The appeal site lies some distance from the main road and, owing to its largely open grounds and fields behind and opposite, Rayworth House sits within a largely open and rural setting.
6. Permission already exists within the grounds for a garage building of a similar scale and design to that proposed here. There were signs that construction of this had started and there is no indication that the development is meant as an

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alternative for this structure. As such, I must consider the appeal in the expectation that this will be fully implemented. There is another smaller detached garage in the garden which the appellant has stated would be demolished as part of the development.

7. For what is described in the appellant's statement as a garage for the storage of two cars, the development would result in a building with a significant footprint. Even with the use of matching materials, the size and overall appearance of the building, including the shallow pitch of the roof, would be more akin to a commercial unit than a domestic garage. In addition, each of the roller shutter doors would be around the width advocated in the South Derbyshire Design Guide Supplementary Planning Document (DGSPD)(2017) for individual double garage doors. Two of these together, along with the additional width either side of the doors, would serve only to exacerbate the impression of a non-domestic building. While it would be subordinate to the main dwelling in terms of height, its excessive width and depth ensures that the development would not be seen as being either subservient or complementary in nature.
8. The elevations presented to any views from the north or south would also be significantly wider than that of the dwelling. Not only would this emphasise the development's overly dominant size, but when combined with the permitted building, it would have a discernible and harmful impact on the open and undeveloped nature of the garden area and the domestic character of the site. In removing permitted development rights from the former agricultural land, it would be reasonable to assume that there were some concerns over the potential impacts of additional structures in this area. In this context, the fact the site is already garden and thus in a form of domestic use does not justify the introduction of such a large and discordant structure.
9. The Council's acceptance of a similar sized building in the grounds does not mean that additional large structures should automatically be considered acceptable. Indeed, the cumulative impact of the two buildings is a factor to which I have given substantial weight. Moreover, the development before me is in a prominent location directly adjacent to the house, where its unsympathetic scale and appearance in comparison to the dwelling would be more apparent. While Grassy Lane may not be a busy thoroughfare, the detrimental change in the character and appearance of the site would still be readily apparent to passers-by.
10. I therefore find that the development would result in unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with South Derbyshire Local Plan Part 1 (2016) Policy BNE1 and South Derbyshire Local Plan Part 2 (SDLP2) (2017) Policy H27 and the DGSPD which seek, amongst other things, to ensure that development is of a scale and character in keeping with the host property. As a result of conflict with Policy H27, the development consequently also conflicts with SDLP2 policies BNE5 and SDT1 which seek to control development in rural areas outside settlements. There would also be conflict with paragraph 127c of the National Planning Policy Framework, which requires development to be sympathetic to local character and be visually attractive.

11. The decision notice refers to SDLP2 Policy H26. However, as the conversion of land to residential garden has already taken place this policy is not directly relevant to the main issue.

**Other Matters and Planning Balance**

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
13. The appellant argues that the same form of development could take place within the original curtilage of the dwelling under permitted development rights. Consequently, he considers this represents a realistic fallback position. It is outside the scope of the appeal for me to determine whether the development would normally constitute permitted development. Even if I were to accept this as a possibility, there are no guarantees that the development would take place on the site of the existing garage, particularly as it has already been suggested this is not in a convenient location for the appellant. As such, it is not necessarily a case of comparing the relative harm of buildings in these two locations. I am also unconvinced by what is before me that there are no alternative locations within the site where development could take place without causing the same degree of harm as the proposal. It is not definitively the case therefore that any fallback position would be of equal or greater harm than the development. As such, this does not alter my overall conclusion.
14. Correspondence from the appellant suggests the building is required to provide space for items that are being stored off-site and are causing expense. However, even accounting for this, it is not entirely clear why two buildings of the size permitted and proposed are required. I am not therefore persuaded that either the individual or cumulative harm to the character of the area is justified by what amounts to the personal circumstances of the appellant.
15. Whether or not the existing garage is fit for purpose, the need for a replacement does not necessarily justify something of significantly greater size and impact. I have also given little weight to the argument that the existing garage is out of keeping with the main dwelling. Whether or not this is the case, it does not justify allowing something of potentially greater harm. Accordingly, this factor carries little weight. In addition, a condition removing permitted development rights would not mitigate the harm caused by the development and would thus not make it acceptable.
16. Taken together, the above material considerations do not lead me to a decision other than in accordance with the development plan.

**Conclusion**

17. For the reasons given above I conclude that the appeal should be dismissed.

*S J Lee*

INSPECTOR



## Appeal Decision

Site visit made on 24 January 2019

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7<sup>th</sup> February 2019

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### **Appeal Ref: APP/F1040/D/18/3218155 17 Sealey Close, Willington, Derby DE65 6EP**

- 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 & Mrs Kevin & Sandy Bradley against the decision of South Derbyshire District Council.
  - The application Ref 9/2018/0981, dated 10 September 2018, was refused by notice dated 6 November 2018.
  - The development proposed is the erection of extensions.
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### **Decision**

1. The appeal is allowed and planning permission is granted for erection of extensions at 17 Sealey Close, Willington, Derby DE65 6EP in accordance with the terms of the application, Ref 9/2018/0981, dated 10 September 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J2691-01, J2691-02, J2691-03, J2691-04.
  - 3) 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.

### **Preliminary Matter**

2. For the avoidance of doubt, I have removed superfluous address information in the description above that does not relate to the act of development.

### **Main Issue**

3. The main issue is the effect of the development on the character and appearance of the area.

### **Reasons**

4. The appeal relates to a detached dwelling in a relatively modern residential estate. The appearance of the dwelling reflects one of a number of repeating designs across the estate. To the front, the development would result in a first-floor extension above the integral garage.

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5. While I acknowledge that the main gable is the main architectural focal point, I am not convinced that the development would undermine this to any material degree. The extension would have the appearance of a narrow gable feature to one side of the main entrance. This would project beyond the main gable feature, but would extend no further than the existing building line of the garage and porch. The extension would also be of a lower height than either the overall ridge height or that of the main gable. The narrow width and height of the extension would ensure that it would remain a wholly subservient feature. The development would also maintain the high degree of articulation that already exists and which helps to break up the overall mass of the frontage. As a result, I am satisfied that the extension would not result in an unduly dominant, intrusive or discordant feature on the host dwelling.
6. I also saw other examples of narrow projecting gables in the immediate vicinity of the site that are not wholly dissimilar to the appeal proposal. Although No 20, for example, is a pitched roof design variant, it nevertheless shares some of the original characteristics of the appeal property in terms of fenestration, integral garage and porch. In that case, there is a narrow gable which projects beyond the main elevation above the garage in a similar fashion to that proposed here. While there are some differences between the proposal and this example, it would nevertheless share some characteristics. In addition, I saw other nearby examples where similar features are located in the middle of front elevations above entrances. These would also help to ensure that the development would not appear as an overtly incongruous or unsympathetic addition to the street scene. Rather, it would simply blend into the existing variety of designs already on display.
7. The Council raises no objection to the rear extension and I saw nothing to suggest that I should come to a different conclusion. I therefore find that the development would not cause material harm to the character and appearance of the area. Accordingly, there would be no conflict with South Derbyshire Local Plan Part 1 (2016) Policy BNE1, South Derbyshire Local Plan Part 2 (2017) Policy H27 or South Derbyshire Design Guide Supplementary Planning Document (2017) which seek, amongst other things, to ensure development responds to its local context and are of a scale and character in keeping with the host property.

#### **Conditions**

8. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty. I have also imposed a condition requiring the use of matching materials in the interests of the character and appearance of the area.

#### **Conclusion**

9. For the reasons given above I conclude that the appeal should be allowed.

*S J Lee*

INSPECTOR