

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

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

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

1. PLANNING APPLICATIONS

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

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

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

01/05/2018

Item **1.1**

Ref. No. **9/2017/1262/FM**

Applicant:
Rory Mulroe
2 Freesia Close
Loughborough
LE11 2FD

Agent:
Rory Mulroe
2 Freesia Close
Loughborough
LE11 2FD

Proposal: **CHANGE OF USE OF LAND FOR TOURISM PURPOSES AND
RETENTION OF A YURT AND A TIPI WITH ASSOCIATED SAUNA
AND COMPOST TOILET STRUCTURES WITH PARKING AND
HARDSTANDING AT LAND AT SK3221 7095 TICKNALL ROAD
HARTSHORNE SWADLINCOTE**

Ward: **WOODVILLE**

Valid Date **09/01/2018**

Members will recall deferring the determination of this case at the last meeting pending a visit to the site by the Committee. Since that time no changes to the report have been made.

Reason for committee determination

The item has been called to Committee by Councillor Mrs Coe due to local concern that has been expressed about a particular issue.

Site Description

The site is an open field with footpaths running around its perimeter and through the site. The site is located adjacent to Buildings Farm and is bounded by hedgerows and has an open, rural appearance.

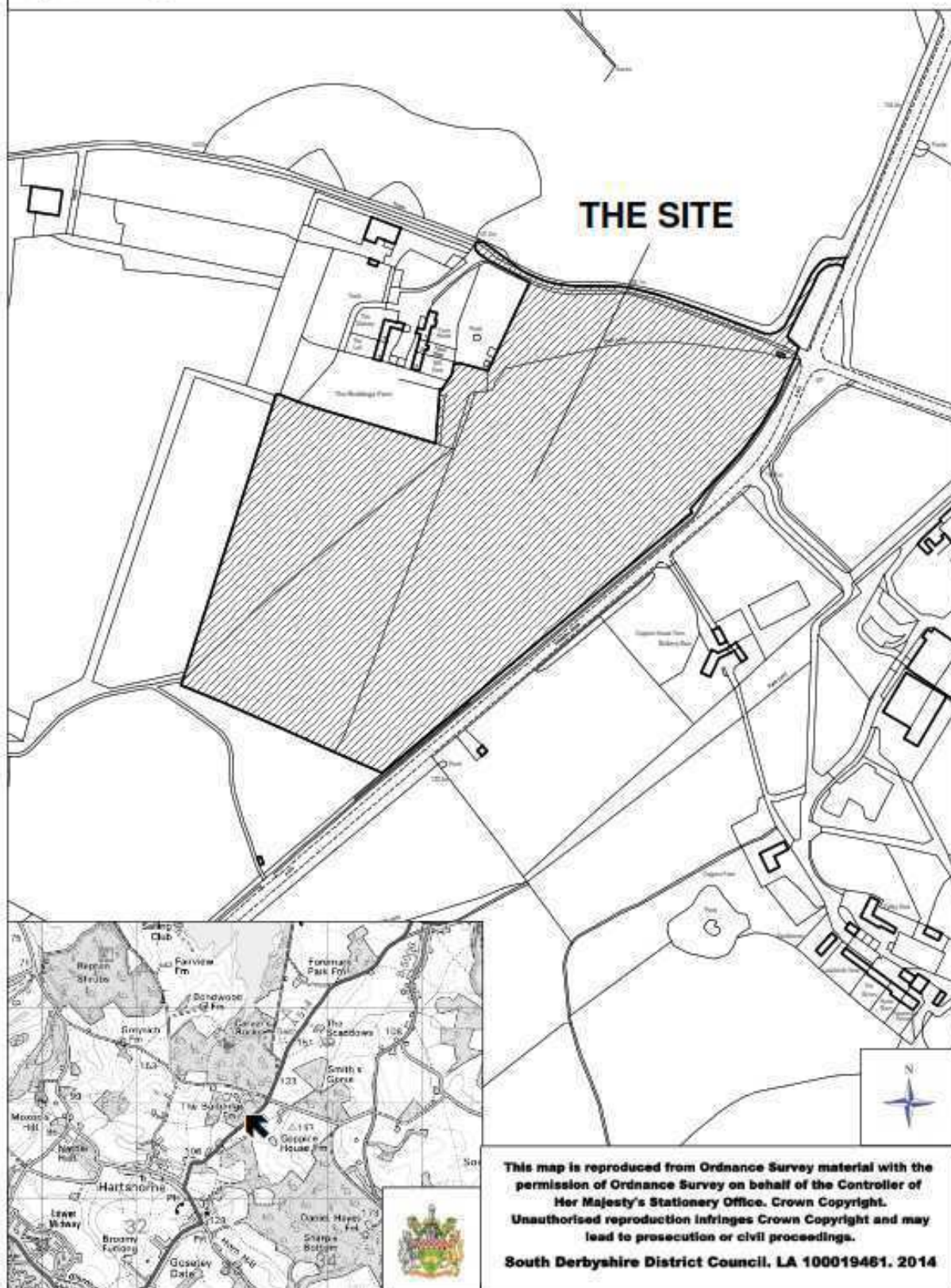
Proposal

Consent is sought for the change of use of the site to tourism and for the erection of a yurt and a tipi as well as an associated toilet shed, sauna and hot tub, to serve as tourist accommodation.

Planning History

The relevant planning history for the site is explained below.

9/2017/1262 - Land at SK3221 7095, Ticknall Road, Hartshorne, Swadlincote (DE11 7AU)



9/2015/0440 – Consent was granted for the erection of a log cabin to be used for holiday lettings, this is shown to the north of the site and was approved with conditions on 30/06/2016.

9/2017/1365 – Consent was sought for the erection of a new log cabin to create a live/work unit along with creation of parking and turning area and decking at Buildings Farm (adjacent to the site). This was subsequently refused on 20/03/2018. The application was refused as an unsuitable permanent dwelling in the countryside.

Responses to Consultations

The County Highway Authority refers to previous comments that were made under planning application 9/2015/0440 regarding the use of the existing access, where an access was to be created to the north of the site and the access to the south closed off. Provided that the same conditions that were included on planning application 9/2015/0400 are included again there would be no objections.

The Environmental Health Officer/Contaminated Land Officer has raised no significant concerns regarding the development. However, it has requested that conditions are added if permission were to be granted relating to; no open fires, other than BBQ's being permitted at the site, as well as no external lighting without prior consent and for a noise control scheme to be approved in writing with the Local Planning Authority with details of site management, acoustic screening and a "quiet site" policy between 10pm to 8am.

National Forest Company - The size of development would be below the threshold where adopted Local Plan policy INF8 would expect National Forest woodland planting and landscaping to be included. The National Forest Company has recently launched a new Tourism Growth Plan, which sets out a 10-year plan for the potential of the Forest as a visitor destination. The Plan explains that a thriving tourism sector needs to deliver more accommodation to increase overnight stays, which are of greater benefit to the local economy. In particular, accommodation that can reflect the ethos of the National Forest through its design, landscaping and the provision of information would assist with the delivery of the Growth Plan. The proposed development is set within an existing National Forest woodland and close to a large accessible complex of National Forest woodlands at Carvers Rocks and Foremark Reservoir. The National Forest Way passes through the woodlands at Buildings Farm around 500m to the west of the application site. The provision of accommodation close to the Way is a further aspiration of the Growth Plan as it allows more people to make use of this long distance walking route. The ability for visitors to book one-night stays as they walk the Way would be particularly welcomed. In providing additional overnight accommodation, this development would be in alignment with the Growth Plan and the National Forest support the application in principle, subject to the development complying with wider Local Plan policies.

Responses to Publicity

There have been twenty one letters/emails of objection and support that have been received, raising the following concerns/points:

- a. This would be environmentally unsound to the existing wildlife. There would be far more traffic on an un-adopted road, this road is used by the public and residents of Buildings Farm.
- b. The buildings which are apparently in the planning stage are already built.
- c. There are safety concerns regarding the public, who already use the national forest for dog walking, cycling, horse riding.
- d. This would be an unregulated business in the middle of the national forest. Much more traffic on a quiet un-adopted road.
- e. Hartshorne would not be a suitable tourist destination as it has too few attractions and amenities; there is not even a shop. Tourism here would require reliance on cars to access amenities which would cause sustainability problems. The site is rural and development would be intrusion into the countryside. Yurt and tipis are not appropriate accommodation for Hartshorne and the noise and activity associated with vehicles, hot tubs and saunas unacceptable in a peaceful location.
- f. This is a retrospective planning permission request as the majority of buildings are already in place without prior planning permission being given. The access to the site is not an adopted road and is unsuitable for the volume of visitor traffic proposed. Access from the un-adopted road is down a green public footpath (footpath sign have been removed).
- g. The trees have already been felled in the area in contrary to planning policy.
- h. Hartshorne is not a service village and site is far from any amenities. The development of overnight tourism in the area is only at 30% capacity at the moment so is not required.
- i. The proposal involves taking cars into established woodland which spoils the environmental impact of the national forest and open countryside.
- j. This is not a monitored or managed site. The development will bring littering/waste disposal/pollution /noise and fire control.
- k. One of the parking sites is positioned at an emergency services access point to the forest as part of the national forest conditions.
- l. Is there any archaeological impact due to the development? No
Archaeological Survey has been submitted with this application to assess the potential of any archaeological significance.
- m. In addition, another application for building of a log cabin/living accommodation/office by Midlands Logging company at Buildings Farm has also been submitted by another party (ref 9/2017/1365). It is requested is that whilst these applications must be looked at individually, a joint view of the proposals must be considered as the minimum net effect would mean over 30+ additional vehicles using the site, and the creation of 16 car parking spaces as well as overall environmental impact.
- n. The applicant is not a resident of Hartshorne .There are inaccuracies on the application; all the structures are in situ, trees have been felled and the map submitted with the application shows a different location of the access road off Ticknall Road to how the current access road layout is.
- o. The applicant has a business in extreme survival camp and walking on coals and glass.
- p. The access road is not adopted and would not cope with the volume of daily traffic. The entrance to the site is a public bridleway and the post advising

this to the general public has been removed. Emergency service vehicles would not be able to access the site.

- q. The land where the proposed dual road track would be for the site is too boggy to accommodate vehicle access and would require significant drainage. The proposed dual road track will be over residents sewerage soakaway's having potential to cause expensive damage and pollute the environment and contaminate the land.
- r. The proposed application will affect regular horse-riders who use the access road due to the volume of daily traffic.
- s. Pollution to the environment, wildlife and health from smoke and potential contamination of the land from proposed toilet facility. Residents would be unable to open windows or doors in the summer months and the smoke (from large bonfires) would likely pollute the local environment and affect wildlife (there is a badger set nearby and other wildlife such as deer, bats, owls, hedgehogs and foxes), resulting in a significant deleterious impact on the natural beauty and peacefulness of the National Forest.
- t. The litter at proposed site will destroy the National Forest and the site will not be managed on a day to day basis. There is no pavement from the proposed site to local tourist attractions such as Foremark Reservoir. There are no local amenities in Hartshorne to accommodate basic living needs for tourists using the proposed site.
- u. The main access road from Ticknall Road to Buildings Farm does not comply with the original road plans when the barns were converted. The current non approved entrance location is dangerous and a safety hazard to drivers and accidents have occurred in this area.
- v. Tourism will not boost local businesses such as a shop or tea-room as Hartshorne does not have these amenities.
- w. The proposal is for a glamping site; glamping stands for Glamorous Camping. This normally attracts families with young children to experience the countryside and nature in a glamping pod. This site which is already there is nothing like it. This particular set up (which I dispute is glamping) won't attract families. Owing to the business of the applicant, it is likely to attract large groups of predominantly adult males who want to fire walk, carry out martial arts and then drink alcohol in hot tubs and play loud music at night.
- x. There has been an increase in the number of car accidents on Ticknall Road (A514) over the last 1-2 years. This includes accidents at the brow of the hill close to the right as you exit the access road and cars in ditches to the right of the road. Cars travel at excessive speed. This was highlighted at the parish council meeting on Monday 12th February 2018 and concern was raised about additional traffic accessing the road. This application asks for 6 parking spaces, so there could be an additional 20-30 (estimated) car movements per day moving onto Ticknall Road causing additional danger
- y. Dog walkers are concerned about cars parking in the national forest and driving down a public footpath. Local people are not keen about an unsupervised glamping site as it will be noisy and generate litter.
- z. A badgers sett are nesting close to where the proposed tourism development will be located. These are a protected species and there is a high risk that their tunnels, chambers and nesting sites could be disturbed.

- aa. What steps would be taken by the owner to ensure that the site, and fauna and flora would be respected by holidaymakers, part of the current woodland would be destroyed to complete roadways and car parks. The area is currently used by people to walk and enjoy the local area, there is plenty of accommodation locally for tourists to do the same without destroying woodland to accommodate them.
- bb. The planning application does not make it clear if the existing walking routes through Rowen wood will remain.
- cc. The sites of both the tipi and yurt are very close to public footpaths, which are used daily by dog walkers and hikers and are near to picnic areas. They would disturb the peace and tranquillity of the area with cars coming into the fields to park.
- dd. The sites are not sustainable and the Hartshorne area is not really a holiday destination.
- ee. As long as the environmental impact is minimal and there will not be cars speeding up and down the track then I would fully support this. It makes a pleasant change from building more and more houses on green belt land. It will bring tourism to the area and local economy will improve.
- ff. Once again there is a local land owner who is trying to drive a coach and horses through the local planning laws to eventually obtain residential permission for further development of a green field site within the local areas of the National Forest. It would appear that local land owners are trying to turn Hartshorne into a centre for stag and hen parties with little or no regard for local residents. These type of facilities do not fit in with the local amenities that are available and will only lead to problems for locals who pay their council tax.
- gg. The area is being promoted as part of the National Forest and enjoyed by locals and visitors alike. Changes to public rights of way should be carefully considered if only to facilitate temporary structures. There are sympathies for the occupants of the adjacent residents who will inevitably be impacted by the activities on this leisure site.
- hh. The proposed development is not in keeping with the surrounding area. These structures are tipis, yurts, saunas, hot tubs and a fire pit. These are not likely to attract young families with children, wishing to experience the pleasures of the National Forest, or learn about sustainability and conservation. These structures are more likely to appeal to groups of young people looking for a party environment in the woods; more in keeping with a music festival (Glastonbury) atmosphere than a "back to nature" retreat.
- ii. There are concerns about the potential for damage to Rowan Wood, rowdy antisocial behaviour, litter, noise from loud music and partying, illicit drug taking and excessive alcohol consumption. There is also a significant risk of forest fires and the risk to life and property of local residents.
- jj. From research of other sites there are concerns that there may be antisocial behaviour and health and safety issues.
- kk. The development would affect the public's enjoyment of the National Forest.
- ll. There will be a substantial increase in noise, particularly in summer when residents with young children may wish to be able to put them to sleep with their windows open, something which will not be possible if large adult groups are staying in the adjacent site.

- mm. The marketing associated with this site demonstrates that it is not intended to be a quiet family site.
- nn. The developer will restrict the dog walking routes in the area and will remove parts of the national forest that have only just come into maturity.
- oo. There is no requirement for the development of overnight tourism in the area and could lead to the creation of more tourism in the area which would harm the character and appearance of the area.
- pp. The paths would cross over a septic tank and foul pipes.
- qq. The proposed development does not take into account public safety or minimise opportunities for crime and anti-social behaviour.
- rr. This would be an alien pattern of development in the area and does not have locally inspired character.
- ss. In addition to the log cabin that was approved as part of planning application 9/2015/0440, this would result in a significant concentration of tourist uses in the area.
- tt. Planning application 9/2017/1262 and 9/2017/1365 should be assessed together.

Hartshorne Parish Council objects to the proposed development site which has been in operation for several years. However, the applicant now seeks formal permission to extend into a summer holiday destination (change of use).

- a) Concerns as there is no on-site management and no control of numbers and the type of groups (i.e. same sex groups). There appears no control times for outside activities to cease.
- b) The approach to the site is an un-adopted, unmade track which is used by walkers and horse riders. Please note that the footpath signage has been removed.
- c) The site is close to domestic dwellings at Buildings Farm. Therefore, there are concerns over noise and outside activities.
- d) Although not part of the National Forest, it is very close to land marks such as Carvers Rock
- e) Concerns over the effects on wild life and the overall environment in the area.
- f) Although subject to another application 9/2017/1365, some of the problems created cannot be viewed in isolation i.e. impact on traffic using the site, access and egress on to Ticknall Road.
- g) Hartshorne village is an unsustainable village with no village shops. The only commercial ventures are the 3 public houses which are not within easy walking distance.
- h) The proposed site is very close to existing dwellings.
- i) The Parish Council is concerned about many Environment and Health and Safety issues e.g. litter, waste disposal and fire control i.e. will the Fire Service be consulted on materials to be used in the construction on site?

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3

(Biodiversity), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest) and INF10 (Tourism Development).

- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Local Distinctiveness), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

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:

- Principle of Development
- Visual Impact
- Environmental Health Issues
- Highways

Planning Assessment

Principle of Development

Whilst the site falls within the open countryside, there is scope within the Local Plan Part One for the erection of new overnight tourist accommodation, provided that it is placed in an area where there is a demonstrable and recognised need. The site falls within the National Forest, with the National Forest Way passing through. Policy INF8 of the Local Plan Part One recognises that there is a lack of suitable overnight accommodation within the area and the National Forest wishes to promote the creation of overnight accommodation in this location, in accordance with the National Forest Tourism Growth Plan. In addition, policy INF10 of the Local Plan Part One also supports the creation of overnight tourist accommodation that is in an appropriate location and where an identified need cannot be met. It also specifies that the proposed buildings should be well designed and be of a reversible or a temporary nature. The yurt, tipi and other associated structures would be of a construction that would mean that they could be easily removed from the site at a later date and reversible. On the basis of this, the change of use of the land and the retention of the structures would be consistent with policies INF8 and INF10 of the Local Plan Part One.

Concerns have been raised by Local Residents that the proposed use of the site would not be suitable and would inhibit people accessing the site and the wider National Forest. However, the National Forest Company are in support of the use of

the site for overnight accommodation and this would assist with the Company's wider objective to encourage people to use the National Forest Way.

Visual Impact

Concerns have been raised by local residents that the proposed structures would be out of keeping with the wider area and would be harmful to the local character. The structures are of a small and temporary nature and would be in-keeping with the wider woodland. The structures would be screened from wider public view by the existing hedgerows and forest planting that surrounds the site. On the basis of this, the structures would not have a harmful visual impact and would comply with the principles of policy BNE1 of the Local Plan Part One and BNE5 of the Local Plan Part Two.

Environmental Health Issues

Concerns have been raised by local residents with regard to the proximity of the tipi/yurt to the existing residential properties; the activities that could be carried out at the site and the likely noise that would be generated at the site. The proposed yurt would be 4.9m in diameter and the tipi would be 5.4m in diameter. Concerns have been raised by local residents that large numbers of people could gather at the site and the potential for anti-social behaviour. However, the size and extent of the structures should naturally restrict the numbers of guests that could be accommodated at the site which could only accommodate so many people. In addition, concerns have also been raised by local residents with regard to issues of noise, smoke pollution and potential anti-social behaviour. Details have been submitted through the consultation process by local residents with regard to potential activities that they think may be carried out on the site. The Environmental Health Officer has requested the use of planning conditions to control noise at the site late at night through a management plan, which would address the creation of fires at the site (with the exception of BBQ'S), management of the site, the use of external lighting, and acoustic screening for the hot tub area. This would endeavour to address the concerns that have been raised by local residents with regard to likely smoke and noise pollution and potential anti-social behaviour. On the basis of this and with the inclusion of these planning conditions, the impact of the development on the amenity of local residents would be significantly reduced and would ensure an area of overnight accommodation in an area of the National Forest where there is a demonstrable need and would comply with policy SD1 of the Local Plan Part 1.

Highways

Concerns have been raised regarding the use of the current access and the likely increase in traffic to the site. Owing to the size of the buildings, the accommodation would naturally restrict excessive numbers of people being able to stay at the site and use the facility. However, people may continue to travel to the site to visit/use the footpaths within the National Forest, of which there would be no planning control to restrict this. The County Highway Authority has confirmed that the proposed access would be acceptable through the use of a planning condition that would stipulate that the proposed access along Ticknall Road must be created within three months, in accordance with the same planning condition used for application

9/2015/0440. This would allow a safe and suitable access to accommodate the site and would be consistent with policy INF2 of the Local Plan Part 1.

The site currently has several footpaths that surround the perimeter and cross along the centre of the site. The development would not restrict the footpaths at the site and would not close them off to the public. As such there have been no objections from the County Highway Authority regarding access or Public Rights of Way.

Other issues

Comments have been received from a local resident raising concerns with regard to below ground archaeology. However, the site is not located within an area of identified archaeological interest and there would be no requirement for an Archaeology Survey to be submitted.

Conclusion

The development would create overnight accommodation within the National Forest that would be of a reversible nature. The buildings would be well screened by existing planting and would not appear out of character in a countryside location. The development would comply with policies BNE1, SD1, INF8 and INF10 of the Local Plan Part 1 and policy BNE5 of the Local Plan Part 2.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the amended Location Plan received on 14th December 2017; Site Plan 1, received on the 9th January 2018; Site Plan 2, received on the 9th January 2018; Site Plan 3, received on the 9th January 2018; Yurt Floor Plan, received on 9th January 2018; Yurt Elevation Plan, received on 9th January 2018; Tipi Floor Plan, received on 9th January 2018; Tipi Elevation Plan, received on 9th January 2018; Compost Toilet Floor Plan, received on 9th January 2018; Compost Toilet Elevation Plan, received on 9th January 2018; Hot Tub Floor Plan, received on 9th January 2018; Hot Tub Elevation Plan, received on 9th January 2018; Sauna Floor Plan, received on 9th January 2018; Sauna Elevation Plan, received on 9th January 2018; and the submitted document ""Change of use of Forestry Land at Rowan Woods to tourist accommodation Glamping sites"" received on 9th January 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as described in the application documents and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.

3. Within three months of the date of permission, or the first occupation of the site the sole vehicular access to the site shall be via the access shown on the application site to Ticknall Road (A514) only, with the alternative access block off.

Reason: In the interests of highway safety.

4. Within three months of the date of permission, or the first occupation of the site, a scheme of noise control shall be submitted to and approved in writing with the Local Planning Authority; this scheme shall include details of a ""quiet site"" policy, enforced between 10pm and 8am; details of site management which shall be provided by the site entrance, and the contact details of person with responsibility for the site made available. The development shall be carried out in accordance with the approved details.

Reason: To ensure the amenity of local residents and their ability to enjoy their properties.

5. Details of acoustic screening of the hot tub areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details within three months of the date of permission or prior to first occupation and retained as such thereafter.

Reason: To protect the amenity of neighbouring residents.

6. Notwithstanding the submitted details there shall be no open fires, other than BBQ's at the site.

Reason: In the interest of the public amenity.

7. There shall be no external lighting fixed to and structure on the site, unless approval has first been granted by the Local Planning Authority.

Reason: To protect the public amenity from light pollution.

8. The site shall not be occupied by guests until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

Informatives:

1. The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be

kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

Item **1.2**

Ref. No. **9/2017/1293/OS**

Applicant:

**Mr Stuart Ashton
Harworth Group PLC
Advantage House
Poplar Way
Rotherham
S60 5TR**

Agent:

**Mr Steve Lewis-Roberts
Pegasus Planning Group
4 The Courtyard
Church Street
Lockington
Derby
DE74 2SL**

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 45 DWELLINGS TOGETHER WITH OPEN SPACE AND LANDSCAPING ON LAND AT SK2430 7995 DERBY ROAD HILTON DERBY**

Ward: **HILTON**

Valid Date **29/11/2017**

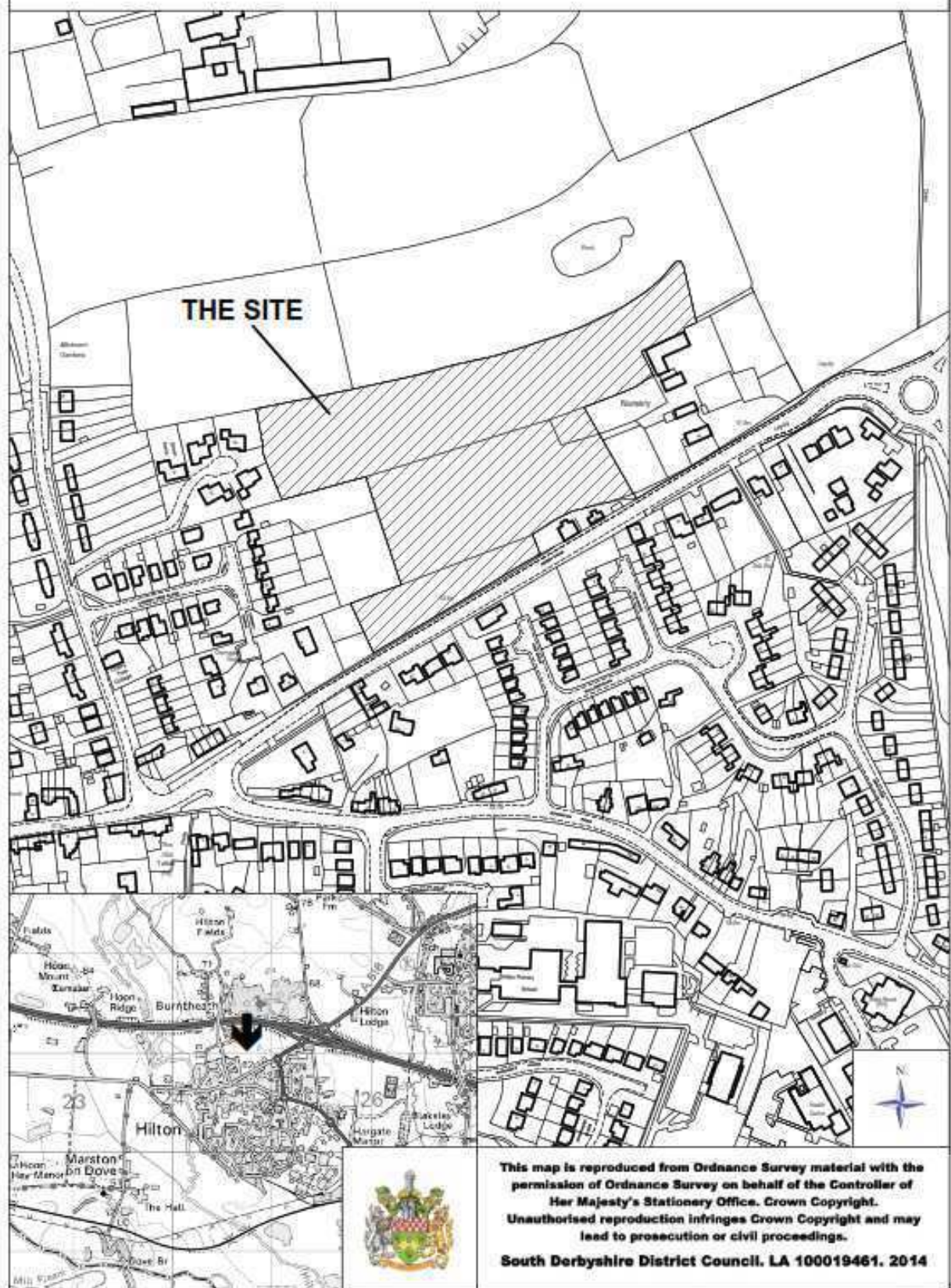
Reason for committee determination

The item is presented to Committee at the request of Councillors Billings, Patten and Plenderleith as local concern has been expressed about a particular issue. It is also a major application subject to more than two objections.

Site Description

The site is situated on the northern edge of Hilton, extends to approximately 2.68 hectares, and is currently comprised of small paddocks, with hedgerows and trees located along field and site boundaries. It has a frontage onto Derby Road lined by a further mature hedgerow and the footway. The site steps around the rear of two properties (numbers 61 and 63) which also front Derby Road, and around the Talbot Turf supplies site to the north-east. To the south of Derby Road are residential properties – some fronting that road, others siding on at the end of Oak Drive and Elm Drive. Little Stars Day Nursery is sited adjacent to the south-west corner of the site, whilst further residential properties and extended rear gardens border the western edge of the site, from properties on Cherry Tree Close and the Sutton Lane cul-de-sac. The land to the north is open agricultural land stretching towards the A50 and the Hilton Industrial Estate.

9/2017/1293 - Land at Derby Road, Hilton, Derby DE65 5FP



A Public Right of Way (PRoW), Hilton footpath 11, begins in the north-eastern corner of the site and travels towards the junction of the A5132 Derby Road and the A50. This PRoW terminates at the site boundary and does not connect through it. A Tree Preservation Order (TPO) has been placed on a number of the hedgerow trees around the edges of the site, and some just beyond. The site is not subject to any other statutory or non-statutory designations.

Proposal

The application is made in outline with all matters except for access reserved and proposes the erection of up to 45 dwellings as a mix of open market homes ranging from 3 to 5 bedrooms, including four bungalows. Affordable housing is to be provided by way of an off-site affordable housing contribution. The main vehicular access is proposed to be taken from Derby Road with pedestrian connectivity through public open space (POS) located to the south and north east of the development – connecting to the existing PRoW. A children's play area is also proposed in the north-east corner of the site. A pedestrian crossing is also proposed on Derby Road, south-west of the access point. Surface water would be attenuated on-site using permeable paving and detention basins, before being discharged into the surface water sewer network.

Applicant's supporting information

A Design & Access Statement (DAS) is submitted in support which analyses the site constraints and opportunities and outlines the broad principles of the development. In arriving at a design solution for the site, it is said how the physical, social and economic context has influenced the design in conceptual terms and informed the illustrative layout. The DAS confirms the applicant's commitment to the delivery of a high quality development that is sensitive to the local context. The proposals aim to make the most efficient use of land that is appropriate to the nature and setting of the site, whilst the layout and design of the scheme would be such that it supports crime prevention and community safety, with development overlooking public spaces and streets.

The Planning Statement sets out how the proposed development is considered to be acceptable in planning terms. Hilton is a sustainable location for growth due to its status as a Key Service Village. The site is allocated for housing in the Local Plan Part 2. The evidence base that supports this allocation demonstrates that this is a sustainable and suitable site for housing. This proposal is considered to represent an opportunity to deliver a high quality development in a sustainable settlement. It relates well to the existing built form and would form a logical village extension that is within walking distance of the amenities and facilities in the village centre. There are considered to be no technical constraints to prevent development and that there would be no adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme. The proposals are considered to accord with planning policy and represent sustainable development as defined by the NPPF.

A Consultation Statement documents how the applicant has engaged with the local community and other key stakeholders, summarises the key issues that have emerged to date, and shows how these issues have been taken on board as part of

the scheme design. A website was set up in March 2017 at the same time some 350 leaflets were delivered to homes and businesses in the immediate area. Comments could be made online or in writing. Pre-application discussions also took place with planning officers whilst the applicant continued to promote the site through the Local Plan Part 2 process. Hilton Parish Council were advised of the emerging proposals and consultation process prior to leaflet distribution, and an open meeting was arranged by the Parish Council in March 2017 in order to discuss the proposals. Feedback was received following the meeting. Representatives also met with Sutton Lane residents in May and September 2017. A total of 138 responses were received by March 2017, representing a 39% response rate. When broken down into issues, it is clear that 'Facilities and Services' was the most frequent issue raised (38%), followed by 'Transport' (26%). The responses to the public consultation exercise have been carefully considered as the masterplan proposals have been updated and refined, particularly following discussions with immediate neighbours. Technical work has also helped to inform revisions since the close of the public consultation process.

A Transport Statement states the site is accessible by a range of sustainable travel modes, and is therefore suitable for residential development. The facilities within Hilton are within walking distance of the site. There are also recommended cycle routes in close proximity to the site notably the Mickleover Greenway which provides a direct cycle link towards Derby City Centre. There are also good opportunities for public transport travel with two frequent bus services within walking distance of the site, and there are opportunities for train travel as part of a multi-modal journey. The proposed development would generate up to 34 two-way vehicle movements in a peak hour. This is felt to be a modest increase against the existing background flow of 694 two-way movements on Derby Road, and hence traffic flows would not materially alter. There is no record of an accident problem in the vicinity of the site and an accident problem would not be introduced given the projected flows. Hence there would be no adverse highway impact. Increases in public transport, pedestrian and cycle trips in a peak hour could be accommodated by the existing and proposed infrastructure, including new footways and a new raised zebra crossing on Derby Road, which would provide a highway benefit both for existing and prospective pedestrians and to help slow vehicle speeds along Derby Road. The transport discussion in the Mandarin appeal decision is quoted in further support of the application.

A Flood Risk Assessment (FRA) and Drainage Strategy reviews all forms of flood risk. The site is located within Flood Zone 1 such that it is considered that the site and surrounding land would be at a low flood risk following development. The drainage strategy looks to address both foul and surface water which would be generated by the developed site, with no surface water flooding occurring for storms up to and including the 1 in 100 year plus climate change event. Surface water would be attenuated using tanked permeable paving and detention basins (Sustainable Drainage Systems, or SuDS), before being discharged into the public surface water sewer network. Flow routing has been considered to ensure that in the event of a blockage, existing adjacent landowners are not subject to an increased flood risk. A new connection into the existing foul sewer in Derby Road is proposed, with it considered that the topography of the site should allow for gravity flows (i.e. without the need for pumping). However, correspondence with Severn Trent Water indicates

that the local public sewer network has potential issues with capacity. A Sewer Capacity Assessment was commissioned to ascertain whether there is sufficient spare capacity to accommodate foul flows generated, and it found that the site would have a low impact overall and that capacity improvements would not be required prior to development. It is therefore considered that from a flood risk and drainage point of view, the proposed development is appropriate.

An Ecological Phase 1 Habitat Survey indicates there are no sites of international nature conservation interest within 5km of the site, although there are three statutory sites – the nearest of which is Hilton Gravel Pits Site of Special Scientific Interest (SSSI)/Local Nature Reserve (LNR) which lies a short distance north of the site, on the northern side of the A50. No impact is expected on Hilton Gravel Pits as a result of the proposed housing development. There are also 9 non-statutory sites within 2km of the proposed development – the nearest being Elm Tree Farm Meadow which lies 0.55km to the east of the site. Again, no impact is expected on this, or any of the other non-statutory sites of nature conservation interest as a result of the development. The site itself supports a range of habitat types and has some potential for protected/priority species to be present, including foraging and commuting bats; breeding/nesting birds; and winter birds. Continuous native hedgerows within the site fulfil the criteria to be considered as priority habitat and are of local conservation interest. It is recommended that further survey work in respect of the protected/priority species is carried out whilst a series of recommendations for mitigation are made.

The Phase 1 Habitat Survey is supported by a Bat Survey Report. This confirms there are no contemporary records of bat roosts within 2km of the site, although there are three records of bats in flight/foraging at Hilton Gravel Pits. One tree within the site is assessed to have moderate roosting potential, but no evidence of bats was found and its position and condition limit the potential for it to provide as a roost. In any case, this tree is to be retained. Bat foraging activity across the site is generally low and a lighting strategy is recommended. A Breeding Bird Survey states no birds of conservation importance were recorded. 6 species of conservation interest were recorded, but their habitats (hedgerows and trees) are to be retained in the majority. Where negative impacts would occur, mitigation could be applied and resulting garden spaces would provide suitable habitat. There is not considered to be a feasible mechanism for the development to impact upon the SSSI/LNR in respect of breeding birds. A Wintering Bird Survey recorded 3 species of conservation importance – Golden Plover, Redwing and Fieldfare. Further species of conservation interest were also noted. Again, there is not considered to be impacts upon the SSSI/LNR in respect of these breeding birds and the impact of the development on these species is not felt to be significant, given observations were either of birds flying over or temporarily stopping en-route.

An Arboricultural Assessment outlines that two narrow and linear field compartments, subdivided by mature outgrown hedgerows, form the confines of the site. Tree cover is considered to be characteristic of its environment. One individual low quality (category C) Crack Willow along with two further low quality tree groups (hedgerows) are recommended for removal to facilitate the development. The most significant loss of tree cover required to facilitate the proposals would be the loss of a single category B Ash tree, so to provide adequate living space for a single dwelling

and its associated areas of hard landscaping. It is considered that the loss of these trees would not be detrimental to the wider landscape whilst the proposed landscape scheme would provide more than sufficient mitigation for this loss.

The Landscape & Visual Assessment (LVA) notes the site is not covered by any landscape related landscape designations; however it is a non-strategic allocation in the Local Plan Part 2. At a County level the site is located in the Trent Valley Washlands Landscape Character Area (LCA) and the Lowland Village Farmlands Landscape Character Type (LCT). More locally the site is generally well contained in the wider landscape, as it sits within an isolated pocket of small scale field parcels between Derby Road and the A50, with very limited intervisibility due to the well vegetated nature of this pocket of countryside. The visual envelope for the site is restricted by the landscape setting and settlement edge and is contained to the east, west and south, by the existing settlement of Hilton and to the north by extensive tree belts associated with Hilton Industrial estate and The A50 corridor. The flat topography of the local area also serves to contain views of the site and any proposed development on it. Some limited physical landscape impacts would give rise to perceived changes in landscape character at a site level. The landscape mitigation strategy (and overall masterplan) however makes provision for the retention of landscape features and elements. The selected viewpoints and subsequent analysis demonstrate that the site and proposed development would be visible from a very localised area only, and also seen in the context or from the context of the existing built environment. Overall the scale and form of proposed development is likely to result in only limited change at a localised level and potential landscape and visual effects are not likely to be significant. Furthermore, the proposals for green infrastructure and landscaping would provide mitigation retaining the overall local landscape character. As such the proposed development is considered to be acceptable in landscape and visual terms.

An Archaeological Desk Based Assessment (ADBA) identifies 6 designated assets within the study area. Only the Talbot Inn shares a view with the site and the impact on the asset is considered to be negligible. A further 15 undesignated assets have been identified, including a Palaeolithic axe, medieval ridge and furrow earthworks, post-medieval chapels, and an Anglo-Saxon cemetery. A site inspection confirmed that the site contains ephemeral earthwork remains of ridge and furrow as well the old Derby Road and potentially the remains of a historic gravel pit. The site has clearly been part of the medieval open field and been under agriculture and now pasture. There is the potential for the gravels to contain further artefactual remains of the Palaeolithic as well as an unknown potential for remains of later periods, although it is expected that some disturbance will have been caused by quarrying. The earthwork remains are not well enough preserved or of sufficient interest to merit an earthwork survey. However, a geophysical survey to be followed by trial trenching, should be undertaken. An Archaeological Geophysical Report follows on from the ADBA and finds no anomalies that can be confidently attributed to buried archaeological remains. The survey did however register ridge and furrow earthworks in the northern field of the site.

A Geo-Environmental Phase 1 Desk Study identifies few potential sources of contamination on and surrounding the site. The likelihood of risk to human health is considered very low. The risk to controlled waters is also considered low to

negligible. Potential sources of ground gas have been identified, and gas monitoring would be necessary in order to quantify the gassing regime of the site and assess the requirement for gas protection measures for the proposed development. The site is not within an area which may be affected by coal mining activities. The geology would suggest that traditional strip/trenchfill foundations are likely to be appropriate across the majority of the site, subject to verification by intrusive investigation. Piled foundations may be required should any deep made ground be encountered during intrusive investigation. The superficial strata on site (sand and gravel) may be conducive to the use of soakaways for surface water drainage. Infiltration testing is recommended to assess the feasibility of soakaways and the rate of infiltration. The solid geology beneath the site (mudstone) is unlikely to be conducive for soakaways.

A Utilities Report has looked at the feasibility of water, electricity, gas and telecommunications supplies. These services exist along Derby Road such that the site can be adequately connected.

Planning History

None identified.

Responses to Consultations

The County Highway Authority notes that whilst the submission documents show visibility sightlines below standard for the 40mph speed limit on Derby Road, the 103m sightlines required can be achieved over controlled land. In terms of the location of the proposed pedestrian crossing, the visibility requirements cannot be presently achieved where indicated, such that the exact location would need to be determined by the speed limit and by demand (although, with the proximity of the bus stops and children's nursery, it is likely that the criteria could be met). In addition, in order to encourage pedestrian trips and the use of the proposed crossing, the footway fronting the site would also need to be widened to 2 metres. Conditions are requested to secure these and other matters, such as a construction management plan, the criteria for layout design of internal roads, etc., and provision of parking spaces and bin stores. The Transport Statement also proposes to relocate the 30mph speed limit on Derby Road. Whilst the Highway Authority considers that, in this instance, the relocation of the limit to the east of its current location would be beneficial, a Traffic Regulation Order (TRO) would be required, the success of which cannot be guaranteed. As the Highway Authority would need to pursue this on behalf of the developers and at their expense, it would need to be included as part of a Section 106 Agreement, and similarly so with the proposed pedestrian crossing. It is therefore requested that a sum of £25,000 is secured under the Section 106 agreement to promote the relocation of the 30/40mph speed limit and to provide pedestrian crossing facilities.

Derbyshire Wildlife Trust notes that the site is comprised of three pasture fields divided by native hedgerows and fences with areas of dense scrub and tall ruderal vegetation. The Phase 1 Habitat Survey identifies the presence of two ponds in fields to the north of the application site. The report states that the ponds were not surveyed and from their knowledge of the site it is considered that the site could provide for suitable terrestrial habitat. Given that the proposal would lead to complete

loss of the grassland habitat, a more detailed assessment to be carried out during the optimal survey period should be provided to determine the level of impact. Notwithstanding this, the main ecological impact would be the loss of native hedgerows that meet the definition of priority habitat. Internal hedgerows are to be completely removed, together with a section of the roadside hedgerow to enable the formation of the access road. Overall, it is estimated that some 221 metres of hedgerow would be lost with further, as yet unspecified, loss to enable the formation of the internal layout. While some compensatory native hedgerow planting might be possible as part of the final layout, it is unlikely that there would be sufficient opportunity to ensure that the proposal does not result in a net loss of hedgerow priority habitat – particularly where retention of hedgerow as garden boundaries is not supported, with their wildlife value diminishing as a result and their long-term retention and appropriate management as a contiguous landscape feature not guaranteed. An undeveloped landscape buffer/green corridor should also be provided alongside the retained hedgerows.

Further evidence of the biodiversity value of the hedgerows on the site is provided in the Bat Survey report and Breeding Bird Surveys report. Bat transects identified that the general low level of bat activity was associated with foraging activity alongside the hedgerows and the five priority bird species recorded on the site are associated with hedgerows. Overall, the Trust advises that the proposed scheme would result in a net loss of hedgerow priority habitat and, as such, is contrary to policy and fails to ensure 'no net loss' as a minimum. However, they recognise the difficulty in resolving this loss of hedgerow, particularly when the site is identified and allocated in the Local Plan. Hence, they seek that compensation should be provided in the form of a financial contribution to the planting of an equivalent extent of native hedgerow in the local area. This should be dealt with as an obligation. In addition, to reduce the extent of overall net loss of biodiversity, the two areas of open space as shown on the illustrative layout should include high quality habitat creation and management, particularly the creation of wildflower meadow with some degree of hedgerow planting.

The Lead Local Flood Authority (LLFA) notes, from the FRA, that parts of the site are conducive to infiltration, subject to further investigation. They fully expect this to be implemented should it be demonstrated that it is achievable. For areas of the site where infiltration is not anticipated to be suitable, it is noted that the applicant's intention is to dispose of surface water to a surface water sewer (via the means of a requisition) at a maximum rate of 9.7 l/s through the utilisation of a balancing pond and tanked permeable paving. Whilst the LLFA expect a greenfield runoff rate at the detailed design stage to ensure no increase in total runoff. This may impact the attenuation required, but this is not of concern. The need to make an allowance for 'urban creep' also needs to be accommodated. The LLFA also make clear that the use of above ground Sustainable Drainage Systems (SuDS) are considered acceptable, given the principles and aims to improve water quality, amenity and biodiversity. They comment that if the proposals change to below ground storage after a grant of outline application, they may change their stance. Furthermore, whilst the applicant has indicated that the proposed attenuation pond shall be adopted by a private management company; the LLFA would require evidence of a company indicating who will be the appointed management company.

The Development Control Archaeologist notes that the HER has records for ridge and furrow on the site and to the north, and a findspot for a Palaeolithic hand-axe in the general vicinity ('north of the village and east of the road'), which was found on the surface in or around the 1950s. The ADBA and geophysics report look to be of acceptable quality and identify the relevant heritage assets. The ridge and furrow is very degraded where it appears within the site, and is of minimal importance. There are other earthworks of possible archaeological interest but these are most likely to relate to small scale quarrying. The former line of the Derby Road (shown on a plan of 1791 but diverted to the current route during the 19th century) crosses the site – this could be a routeway of medieval/earlier origin. There is potential for Palaeolithic remains within the gravel geology beneath the site. The site therefore has a clear archaeological potential, although this is not of sufficient importance to constitute an objection. Rather, the archaeological interest should be addressed through a conditioned scheme of phased archaeological work comprising a scheme of evaluation to test possible archaeology identified through ADBA/geophysics and to assess Palaeolithic potential, and further targeted or open area excavation in the event of significant results from evaluation.

Severn Trent Water Ltd has no objection and seeks a condition and informative.

The Environmental Health Officer seeks conditions to safeguard against contamination, and noise/disturbance and dust during the construction phase.

The County Planning Policy Officer notes that the proposed development falls within the catchment for Hilton Primary School and would generate the need to provide for an additional 9 primary pupils. The school has a net capacity for 770 pupils, with 792 pupils currently on roll, although a projected decrease to 718 is anticipated during the next five years. However, recently approved residential developments within the catchment shows new development totalling 528 dwellings, which would generate an additional 106 primary pupils. The school would therefore not have sufficient capacity to accommodate the 9 primary pupils arising from the proposed development and £102,591.09 is requested to mitigate this impact.

The site is also within the John Port School catchment and the development would generate the need to provide for an additional 7 secondary and 3 post-16 pupils. John Port School has a net capacity for 2,070 pupils with 1,918 pupils currently on roll, and this is projected to increase to 2,015 during the next five years. Approved residential developments totalling 1,683 dwellings, already increase this demand by an additional 252 secondary and 101 post-16 pupils. The school would therefore not have sufficient capacity to accommodate the 7 secondary and 3 post-16 pupils arising from the proposed development and £176,116.89 is requested to mitigate this impact (£120,233.19 and £55,883.70 respectively).

It is also requested that an advisory note be attached to any permission that encourages the developer to ensure that future occupants have access to sustainable communications infrastructure, and that appropriate thought is given to the choice and availability of providers which can offer high speed data connections. Any new development should be served by a superfast broadband connection unless it can be demonstrated through consultation with the network providers that this would not be possible, practical or economically viable.

The NHS Southern Derbyshire CCG notes the proposal would create pressure on the Wellbrook GP practice, and practice does not have spare capacity to manage increased patient demand. The practice is looking to expand their surgery to provide additional patient space such that a contribution of £17,194 is requested towards extension &/or alteration of the existing surgery.

The Strategic Housing Officer seeks provision of affordable housing on-site with a focus towards 1 and 2-bedroom properties, although subsequent dialogue has highlighted the specific policy approach for this site (see below).

The Open Spaces and Facilities Consultant comments that the quantity of POS provided on site seems low for the scale of development, and it isn't particularly meaningful being located around the edges of the site. Also, taking into account the potential loss of a good standard tree and a reasonable amount of hedgerow, it doesn't seem to provide an opportunity to mitigate the environmental/aesthetic impact, whilst the balancing pond makes what little POS there would be relatively unusable. Whilst the intent to connect with the existing PRow and make a pedestrian link from the development to the wider landscape is welcomed, this route loses its integrity once it reaches the road – it being better as an off-carriageway route, retaining an element of rurality rather than becoming part of the highway infrastructure. The size of the development is also almost at the trigger point for a Locally Equipped Area for Play (LEAP), although as there appears to be no suitable space for one on site, the Parish Council should be consulted as to a suitable recipient project/site for an off-site contribution.

Peak and Northern Footpaths has no objection provided that the full width of the PRow remains open and unobstructed at all times. Since the footpath would also have more use as a result of the development, its surface should be improved as necessary.

The Ramblers Footpath Secretary for Derby & South Derbyshire has no objections noting that if the PRow is extended into the site, it would be more useful than it is at the moment since it appears to be a dead end.

The Open Spaces Society as the correct alignment of the PRow is not shown on the indicative layout [now corrected] and that the developer should be required to extend this footpath through the estate to Derby Road.

Responses to Publicity

Hilton Parish Council strongly objects on the following grounds:

- i) whilst Hilton is designated a 'Key Service Village', there is little understanding what this means to the community and further development proposals should be considered very carefully as infilling is further ruining the character of the village while estate development has already overwhelmed it;
- ii) the infrastructure of the village and surrounding area cannot cope with the existing and planned population increase, and although there is a provision for a new primary school there is no further provision for secondary school

children as John Port School is already almost full and struggling, whilst further provision at the Wellbrook Medical Centres is a concern as the patient list is already almost full;

- iii) the location is ill-considered as it is on a greenfield site with a nearby footpath used by many for recreation and dog walking, whilst hedgerows and trees are important to wildlife. It acts almost as an extension to the wildlife reserve, even though divided by the A50 to the north of the site, and any development on this site would affect this delicate balance and have an impact on our native species that are already in decline;
- iv) the land is very close to the former gravel pits and has a very high-water table which could be made worse, with residents regularly observing flooding such that drainage would be essential in the area as it is wet and boggy for most of the year;
- v) the Hilton Neighbourhood Plan (HNP) is also being developed, and the Parish Council and residents feel that the settlement boundary in this area has been moved as part of the Local Plan process following discussions with the developer without open and honest discussions with the community. It is hoped that the development would be 'paused' to allow this to take place allowing the community to have an input and shape the development of the area;
- vi) the transport report references data produced back in 2013 which they believe is out of date, with it countered that the village has had significant development since then and the site is on one of the main routes into the village, whilst the problem of goods vehicles using Derby Road to access the Sutton Lane industrial units has not been considered yet is a regular occurrence;

Notwithstanding these comments, there is support for the reduction of the speed limit on Derby Road and the proposed pedestrian crossing, although its position will need to be re-visited as it does not take into account the revised position of the bus stop due to the Talbot Meadows development.

Councillor Andy Billings seeks consideration of infrastructure improvements including:

- i) the enabling of pedestrian links to the rest of the village from this site
- ii) the opening up of the 'path to nowhere' that currently runs from Egginton Road, between the Foss Road and Isis Way estates to the Greenway;
- iii) a speed limit reduction on Derby Road along with traffic calming and a crossing of some sort;
- iv) a full traffic management review of Hilton;
- v) adequate funding to support an increase in the number of people using the Health Centre (both GPs and dental);
- vi) funding for the Village and Mease Pavilion to account for increased use this development would bring;
- vii) support for local clubs such as sports and youth clubs to enable them to increase in size to accommodate the additional population;
- viii) support and funding for the improvement of existing children's play sites, potentially to include additional equipment.

Councillor Amy Plenderleith seeks consideration of infrastructure improvements including:

- i) monies be requested for health (local doctors) and education (primary and secondary) as both are already under pressure;
- ii) a pedestrian crossing be installed across Derby Road to serve the development;
- iii) the applicant install superfast fibre broad band to serve the site; noting that many of the green boxes in Hilton are at capacity or near capacity, and there are already some connectivity issues on Derby Road;
- iv) that as the indicative plan shows green space taken up with a balancing pond, appropriate leisure monies be spent on updating existing play parks in the village, such as on the village hall site and Mill Lane.

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

Principle of development

- a) loss of greenbelt;
- b) loss of grazing land;
- c) loss of greenfield when there is still a substantial brownfield development being undertaken in Hilton;
- d) cannot see any benefits at all from more houses;
- e) houses are being built and not sold, so the need for more housing can't be confirmed at this time;
- f) the village which has already seen far too much development in recent years;
- g) only 43 dwellings, not 45, should be approved;
- h) there are plans to develop the remaining green space in the future and this application should be refused until plans for the whole are submitted, and so the access road can be from the nearby island – also allowing access to the existing Industrial Estate;

Infrastructure/services capacity

- i) there should be a moratorium on building more houses in Hilton until services are improved;
- j) lack of capacity at the doctors surgery;
- k) lack of capacity at the schools;
- l) lack of parking at the local amenities;
- m) section 106 monies should be ring fenced to use in Hilton only;
- n) the dwellings, and existing properties, should be connected to high speed broadband;
- o) more shops are needed;
- p) bus services not as good as suggested by the applicant;

Transport and highway safety

- q) increase in traffic on Sutton Lane which already is overworked;

- r) the road over the Egginton crossing should be restricted to a 7.5 tonne limit due to traffic volume and larger vehicles causing hazards
- s) increase road markings, double yellows, etc. around the school on Egginton Road near to the proposed site;
- t) there should be parking patrols outside the schools during school periods;
- u) Derby Road currently has issues with speeding traffic and rat running (instead of using The Mease);
- v) HGVs ignoring the weight limits on Derby Road;
- w) there needs to be some traffic calming measures on Main Street and Derby Road;
- x) this plan overlooks the bus stop which has since been relocated just to the west of the proposed pedestrian crossing;
- y) the pedestrian crossing is not sited in line with national guidance;
- z) roads into the village are congested;
- aa) planning applications with significant impact should be accompanied by a Transport Assessment and Travel Plan;
- bb) data presented in the highways report is out of date and does not follow national guidance;
- cc) the speed limit should be reduced all the way back to the A5132 roundabout;
- dd) the access from Derby Road is not ideal and could Sutton Lane be used instead;
- ee) no adequate pavement along the Derby Road frontage;
- ff) overhanging of hedgerows reducing visibility;
- gg) forward visibility along Derby Road compromised by a dip in the carriageway levels;
- hh) existing drop off/collection on Derby Road would not be possible within the controlled areas for the zebra crossing;
- ii) danger for children when using the crossing, given speeding vehicles;
- jj) risk of parking on Derby Road;

Drainage/flood risk

- kk) existing surface water flooding on the site;
- ll) the proposal should not increase the risk of flooding to others;

Heritage

- mm) the site was the line of the original Derby-Utttoxeter turnpike road so has historical interest;
- nn) the geophysical survey does not cover the likely route of the old turnpike;
- oo) inadequate time to provide a response;

Landscape and biodiversity

- pp) the Landscape and Visual document states twice that the A50 is in a cutting, which is incorrect;
- qq) it would reduce the limited green areas around Hilton;
- rr) plans have not been updated to show the Tree Preservation Order (TPO);
- ss) all mature bushes and trees should be maintained;
- tt) wildlife needs to be protected, such as birds of prey and badgers;

- uu) dwellings should only be single and two stories in keeping with the area;
- vv) the site is very close to a wildlife nature site;

Amenity

- ww) anti-social behaviour and crime has increased;
- xx) the 2 properties adjacent to Sutton Lane dwellings need to be single storey as the land is higher, so to reduce overlooking/overshadowing;
- yy) loss of privacy;
- zz) removal of existing trees would remove existing noise shielding from the A50;
- aaa) if allowed, there needs to be control over dust and noise during the construction period;

Design and layout

- bbb) there needs to be at least 2 parking spaces per dwelling, and provision for visitors' cars;
- ccc) roads need to be designed to support emergency vehicles;
- ddd) garages should not be counted as parking spaces;
- eee) there should be no opportunity for vehicular connection to land to the north;
- fff) changes to the design of houses should not be allowed once permission is granted;
- ggg) 3-storey/apartment blocks should not be allowed;

Other

- hhh) reliability of supporting evidence;
- iii) the application does not meet validation requirements and should not be considered; and
- jjj) the Council's pre-application advice is not included with the documents;

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations) and BNE7 (Trees, Woodland and Hedgerows)

Emerging Policies

The Council has received, from Hilton Parish Council, an application for designation of the area comprising the Parishes of Hilton, Marston on Dove and Hoon as a neighbourhood area for the purposes of preparing a Neighbourhood Development Plan (NDP). At the time of writing this report, no designation has been made and no emerging NDP exists.

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Section 106 Agreements – A Guide for Developers (2010)

Planning Considerations

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

- Principle of development;
- Access and highway safety;
- Biodiversity impacts;
- Visual impact;
- Drainage;
- Heritage;
- Layout and design;
- Affordable housing; and
- Infrastructure impacts.

Planning Assessment

Principle of development

The site is allocated under LP2 policy H23(C) for ‘around 43 dwellings’. To this end, the proposal is compliant, given the potential 45 dwellings maximum sought in outline is not materially greater so to conflict with this criterion. The site is also within the settlement confines for Hilton as set out under LP2 policy SDT1 and the quantum of development is in line with the strategy for housing growth, as facilitated by policies S1, S4 and H1 of the LP1. The housing delivered on this site would go towards supporting the continued delivery of a 5 year housing supply. The intention to create a NDP for Hilton does not alter this presumption in favour of the proposal.

Access and highway safety

The County Highway Authority’s response is set out above. The principle of a single point of access to Derby Road is supported, and conditions can appropriately secure its provision and control of the construction phase of the development. The layout,

whilst indicative, raises little concern although it would need to accord with the County's design guide when the layout reserved matter is presented.

Pedestrian movement from the site to nearby services and facilities, and to the site from the village, would be assisted by the improvement of the footway along the northern edge of the site, although this would impact upon the existing hedgerow (see below). The inclusion of a crossing is also welcome, as well as the intention to secure a reduction in the speed limit to 30mph, although Members should be conscious that neither can be guaranteed at this stage given the reliance on a TRO and the need to satisfy highway design criteria. The type of pedestrian crossing would also need to be considered further. It is thus appropriate to defer this provision to a section 106 obligation so that their provision can be promoted by the County Highway Authority.

The completion of a route along Hilton footpath 11, through the site and to Derby Road, is a welcome benefit, offering a circular route for both existing and prospective residents in the area. Whilst the comments of Peak and Northern Footpaths are noted, the County does not seek an upgrade of the existing route and it is not considered this could be seen as CIL compliant given there is no 'destination' for occupants of the site if taking this footpath in a easterly direction. It is thus likely to be solely used for recreation (i.e. ramblers and dog walkers) and a rural aesthetic to the route beyond the site is appropriate. Within the site, a bound surface should be secured under the reserved matters layout – preferably separate to the internal roads, through the POS at the front of the site.

Biodiversity impacts

As noted above, in order to achieve visibility requirements as well as the widening of the footway on Derby Road, much of the existing hedgerow would need to be removed and replanted, or ideally translocated to preserve existing biodiversity benefits of it. It is noted that the indicative layout already has a fairly tight relationship to this hedgerow in the south-western corner, whilst an existing TPO tree could provide liveability issues to plots here, so it is likely a re-plan of this area might be required at the reserved matters stage. The loss of other hedgerow within the site is inevitable given the site is allocated for housing and the existing field pattern is generally long and narrow. However, at this time it seems possible that adjustments to the indicative layout could retain parts of these existing hedgerows, contrary to what is shown presently (i.e. adjusting the shape and position of the SuDS pond, or having the private driveway serving the north-eastern portion of the site run to the south of the proposed dwellings). LP2 policy H23(C) also requires a landscape buffer to be implemented and enhanced along the north and east of the site. Given there is no indication that land beyond the site boundaries is in the control of the applicant, this will have to be secured on site by way of condition. Overall, further consideration of hedgerow and tree retention is necessary to inform a reserved matters submission, but this can be made conditional of that application.

The concerns of the Wildlife Trust are noted. In terms of impact on protected species, there is little concern here. The main focus is on the loss of hedgerow, as set out above, and the apparent inability to fully compensate for this on or off-site. Nonetheless, it must be remembered that the essence of this site being developed

for housing is enshrined in the LP2. Although relatively close to the SSSI, it is not considered the development would negatively impact upon it due to its physical separation from the site by way of the A50 (deterring migration of mammals, amphibians and reptiles). The site is not the subject of a protected ecological designation in itself. Whilst the loss of habitat is not ideal, the Trust has indicated that the 'balance' of that which would be lost from the site could be compensated for by way of a financial contribution towards off-site planting of native hedgerow. Given there would also be some biodiversity benefits by way of creation of the SuDS, it is considered that the level of harm is limited. It is therefore considered that the NPPF requirement to minimise impacts on biodiversity can be satisfied, and policy BNE3 is similarly addressed.

Visual impact

Views of the site are restricted by the landscape setting and settlement edge, with it contained to the west and south by built development, and relatively contained to the east. The existence of the footpath towards the site does little to alter the significance of the site in terms of enjoyment of the countryside, given it has no through destination. The extensive tree coverage around the Hilton Industrial estate and the A50 corridor, which is now maturing, as well as the dense hedgerows along transport corridors, contain the relatively flat topography of the site and the land to the north of it such that views towards the site from the SSSI or surrounding area are not possible. At most, a glimpse through a gateway might be achieved. The result is that the site is not particularly sensitive to visual change, with any glimpse views seeing the site against the backdrop of existing built form. The greatest impact would be on the visual receptors around the site – the residents. However, landscape mitigation in the way of buffer planting, and the overall masterplan approach in terms of scale and layout, seeks to retain features where possible and minimise the evidence of built form being introduced. It is agreed that, overall, the scale and form of the development would result in only limited change at a very localised level.

Drainage

There is no objection from the LLFA, despite the concerns raised about surface water flooding on or adjacent to the site. The approach to surface water drainage appears appropriate in principle, along with foul water disposal. It is however noted that the drainage strategy needs to accommodate the greenfield discharge rates sought by the LLFA and also follow through to layout reserved matter so to ensure the use of above ground SuDS (which also secures biodiversity gain in this respect). With this in mind, and the relatively limited availability of non-housing land within the indicative layout; it would be appropriate to seek evidence that sufficient capacity has been planned for at the reserved matters stage (i.e. before setting the layout). The aspiration to reduce water consumption from new properties across the District under policy SD3 can also be secured by condition.

Heritage

The archaeological study work has revealed a generally low likelihood of interest on the site, although it is noted that the likely route of the former Derby to Uttoxeter turnpike road is shown to pass through the site on the pre-enclosure mapping. This

provides the main focus for archaeological interest, with the potential for finds elevated by this and a record in the vicinity. The conditional approach to investigation and reporting is therefore justified and proportionate, so to satisfy policies BNE2 and BNE10.

This work has also revealed that the hedgerows within the site are likely to be pre-enclosure in origin and thus important in terms of the 1997 Regulations. Nonetheless, the northern boundary hedgerow (which also appears to meet the criteria) would be retained and (with reference to the following commentary regarding layout and design) opportunities to retain as much of the existing within the site would be explored at the reserved matters stage. It must be remembered that the principle of development is established here, and hence the principle of such impacts has already been accepted to some degree.

Layout and design

Policy H23(C) requires a number of criteria to be satisfied. Some are already discussed above, whilst others are addressed below. One particular point is that the housing mix must include four bungalows. These have been indicated close to number 63, which would assist in reducing amenity impacts on those occupiers; and to the rear of 26 & 28 Sutton Lane. This assists in ensuring that the Council's SPD can be satisfied in these areas of the site, although a full assessment would take place at the reserved matters stage. The bungalows would also diversify the choice of dwellings created on the site, appealing to a market of aging residents who are seeking to cater for their needs going forward. This requirement can be secured as part of the reserved matters.

The indicative drawings generally achieves a satisfactory layout, according with the principles of the SPD. Much of the detail is yet to be provided, but it appears that many of the design aspirations can be satisfied. That is not to say that the masterplan is agreed however. As noted above – there are aspects which can be adjusted so to further minimise biodiversity harm and enhance pedestrian movement through the site. These changes may affect the size and mix of dwellings proposed, but it seems possible to retain the overall number.

The latest layout suggests the provision of a Local Area for Play (LAP) in the north-eastern corner of the site. Whilst it is acknowledged the applicant wishes to provide a play area primarily for residents of the site, there are some concerns that this provision may not provide a 'meaningful' resource when compared to the alternative, as discussed below. Furthermore, there would be very limited surveillance of this area as well as it being somewhat cramped and distant from most occupiers on and off the site. On the other hand, the existing provision in this part of the village is limited, with formal play areas at some distance from the site. This is a difficult balance to strike, but it is felt more appropriate to secure a financial contribution in lieu of on-site provision towards the upgrade of facilities elsewhere in the village.

Affordable housing

Policy H23(C) requires an off-site affordable housing contribution to be made in lieu of on-site provision. This has been calculated in consultation with the District Valuer

and, at the time of writing, stands at £596,077 in lieu of 13 units – approximately £45,800 per dwelling. This sum would be put towards the provision of affordable housing elsewhere in the area, recognising both the relatively high level of provision in recent times within the village, and also the opportunities for Council-led projects and/or boosting provision on less viable sites where there is a particular demand for affordable housing provision – including those with specific needs.

Infrastructure impacts

Matters in respect of POS are discussed above. The financial contribution secured would be a 'balance' to the informal POS which would still be delivered on the site, which would not presently include the eventual SuDS solution and landscaping buffer – both being inaccessible for public use. Based on the current indicative layout, approaching 2,300 sqm of informal POS would be provided. This is considerably short of the 4,400 sqm required when estimating dwelling sizes from the indicative layout. Given the foregoing discussion, the actual on-site provision is also likely to reduce so to accommodate SuDS provision and layout adjustments, although the effect may be to surrender some larger dwellings for smaller ones. Financial contributions towards improvement of sports and built facilities affected would be secured, although further dialogue is required with the Open Spaces and Facilities Consultant, and the Parish Council where appropriate, to establish the most appropriate purpose for those sums.

The need to mitigate the pressure the development would create on education provision is clearly set out in the response from the County Planning Policy Officer. These pressures are echoed in the response from the Southern Derbyshire CCG. There is no concern in respect of pooling and CIL compliance. The requirement for financial contributions towards the promotion of a TRO and the pedestrian crossing is also justified earlier in this report.

In summary, the section 106 agreement would seek to secure:

- Healthcare: £17,194 towards expansion of capacity at Wellbrook medical centre in Hilton;
- Education: £102,591.09 towards primary provision at Hilton Primary, £120,233.19 towards secondary provision and £55,883.70 towards post-16 provision – both at John Port School;
- Highways: £25,000 towards the promotion of a TRO and securing of the pedestrian crossing on Derby Road;
- Public open space: an off-site contribution calculated from the 'balance' of POS required as the norm, based on the 25.4 sqm standard required per person (bedroom) and off-site contribution of £373.00 per person, with the project to be confirmed;
- Built facilities: contributions to off-site improvements, based on £122.80 per person (bedroom), with the project to be confirmed;
- Sports facilities: contributions to off-site improvements, based on £220.00 per person (bedroom), with the project to be confirmed;
- SuDS and on-site POS: subject to management regimes, and commuted sums if to be transferred to the Council or Parish;

- Biodiversity offsetting: financial contribution towards the planting to an equivalent extent of native hedgerow to that lost, based upon the length of hedgerow that would be lost (cost per metre to be established); and
- Affordable Housing Financial Contribution: £45,806 per dwelling (calculated at 30% of the eventual number of dwellings provided).

Summary

The starting point for assessment here is that the principle of development, and thus the principle of some of the associated impacts, has been accepted by way of allocating the site in the Local Plan. The proposal accords with the specific criteria of the allocation policy and provides benefits in terms of adding to housing supply, facilitating use of public routes which are otherwise inaccessible and providing contributions which can improve the lifestyles of others beyond the site boundaries. Whilst there would be some less desirable impacts in terms of biodiversity loss, and the indicative layout requires some refinement prior to reserved matters being received; these matters are not considered to weigh significantly in balance to counter the presumption to support the application.

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

Recommendation

- A. Grant delegated authority to the Planning Services Manager to finalise the affordable housing contribution per dwelling and negotiate further the destination for open space, built facilities and sports facilities contributions, along with negotiating and securing a sum for biodiversity offsetting (for hedgerow loss), and subsequently complete a Section 106 Agreement to secure these and other contributions as set out in the report; and
- B. Subject to A, **GRANT** permission subject to the following conditions:
 1. 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 before any development is commenced the further approval of the Local Planning Authority is required in respect of the following reserved matters:
 - (a) appearance;
 - (b) landscaping;
 - (c) layout; and
 - (d) scale.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and so to conform with Section 92(2) 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 remaining reserved matters listed at condition 1 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 begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref. EMS2758_001 Sheet No. 01 Revision F), except for provision of a Local Area for Play, an outward facing development along the northern edge and for the reconfiguration of the housing layout in the north-eastern corner, as far as practicable, to preserve existing hedgerow as much as possible, and the design principles of section 5 of the Design and Access Statement (ref. EMS.2758_200). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:

(a) an undeveloped landscaping buffer along the northern edge of the site along with a landscaping/tree led area of public open space to the north-eastern corner of the site;

(b) retained hedgerows and trees shall, as far as practicable, not act as enclosures to proposed dwellinghouses and be incorporated into public spaces/green infrastructure;

(c) a shading analysis to demonstrate the effects of tree and/or hedgerow shading on residential properties created by the development;

(d) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows;

(e) the continuation of Hilton Public Right of Way no. 11 into the site and connecting to public open spaces and highways within the site. Where practicable, this route shall run through public open space(s);

(f) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 18 & 19 of this permission;

(g) the provision of at least 4 bungalows, in the locations shown on the approved illustrative masterplan;

(h) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/replacement of that guidance) and Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);

(i) the provision of bin collection points at the adoptable highway end of private shared driveways and courtyards, sufficient in size to accommodate two bins per dwelling to which they serve; and

(j) each dwelling shall be provided with space for the parking of two vehicles for each 1, 2 or 3 bedroom dwelling or three vehicles for each 4+ bedroom dwelling, with any garages to be counted as a parking space of internal dimensions no less than 3m x 6m.

Reason: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under the Council's Design Guide SPD and Secured by Design, in the interest of highway safety and drainage, and in the interest of biodiversity conservation and enhancement.

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

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

5. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0800 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

Reason: In order to protect the amenities of adjoining residential occupiers.

6. There shall be no burning of materials on site during the construction phase of the development. For the avoidance of doubt this includes any preparatory works to clear vegetation on site.

Reason: In order to protect the amenities of adjoining residential occupiers.

7. No generators shall be used on the site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, only those approved generators shall be used.

Reason: In order to protect the amenities of adjoining residential occupiers.

8. No development, including preparatory works, shall commence until a Risk Assessment/Method Statement for amphibians, detailing Reasonable Avoidance Measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Risk Assessment/Method Statement.

Reason: In order to safeguard protected species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

9. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) 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 details submitted shall also include a study on the feasibility of translocation of the hedgerow fronting Derby Road to the rear of the access visibility splays required under condition 16, along with a method statement to deliver these works there this option is found to be feasible. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period, whilst any approved translocation works shall be carried out prior to creation of the access in accordance with condition 16.

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 to protected and non-protected interests.

10. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological monitoring (WSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- i) the programme and methodology of site investigation and recording;
- ii) the programme and provision to be made for post investigation analysis and reporting;
- iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

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

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

11. a) No development shall commence until all recommendations at 7.1 of the Phase 1 Desk Study (dated April 2017 ref. P17-060 Revision O) have been completed in relation to determining the contaminative status of the site. The scope of any required remedial works shall be submitted to and approved in writing by the Local Planning Authority before any development commences, whilst the approved remedial works shall be implemented prior to the first occupation of a dwelling, or each dwelling as the case may be. The scheme shall include all of the measures (phases II to III) detailed in Box 1 of Section

3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance'), unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to the first occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.

d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

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

12. No development shall commence until a dust mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall take into account the latest national practice guidance and highlight details of the likely resultant dust levels from activities during the construction phase at the nearest residential premises, as well as those dwellings which may be occupied as part of the development, and set out measures to reduce the impact of dust on those residential premises. The approved strategy shall then be implemented throughout the course of the construction phase.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties, noting that initial ground works could give rise to unacceptable impacts.

13. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

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

14. No development shall take place until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to and been approved in writing by the Local Planning Authority. The CMP/CMS shall provide details of space for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions. The CMP/CMS shall be adhered to throughout the construction period.

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

15. No development or other operations, including preparatory works, shall commence until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is replaced/completed pursuant to the requirements of condition 16.

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

16. Prior to any other works commencing on site, the new access shall be provided onto Derby Road generally in accordance with plan/drawing ref. ADC1589/001, constructed to base course and having a carriageway width of 4.8m, 2 x 2m width footways and radii of 6m. Notwithstanding this approved plan/drawing, prior to the use of the access for further construction works the access shall be provided with visibility sightlines of 103m in each direction, measured from the central point of the access at 2.4m back from the Derby Road nearside carriageway edge to the nearside carriageway edge in both directions. Subject to condition 9, the area forward of these sightlines shall be levelled and constructed as 2m wide footways. The area within the sightlines shall be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that construction works without suitable access provision could bring about unacceptable impacts.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), no lines, mains, pipes, cables or other apparatus shall be installed or laid on site other than in accordance with drawings first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that such works may compromise the rooting systems to trees and hedgerows.

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

The assessment shall also provide an evidenced and full understanding of the springs within the site and any associated mitigation requirements which might be required. Any mitigation required shall be accommodated in the surface water drainage scheme required under condition 19.

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.

19. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with the principles outlined within the Flood Risk Assessment & Drainage Strategy (dated September 2017 prepared by Rogers Leask) and Defra non-statutory technical standards for sustainable drainage systems, shall be 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. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

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

undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 19. 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.

21. Prior to any works to construct a building, a scheme of biodiversity enhancement (namely the incorporation of bat roost and bird box features as outlined in sections 7.13 and 7.14 of the Extended Phase 1 Habitat Survey report prepared by AES-Ltd) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also include a method of communicating the purpose of such biodiversity enhancement measures to occupiers of the dwelling(s). The approved scheme shall be implemented so that physical measures are incorporated before the first occupation of each respective dwelling and thereafter retained and maintained.

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

22. Prior to the occupation of a dwelling, the Derby Road footway fronting the site shall be widened to 2m, laid out and constructed in accordance with a scheme first submitted and approved in writing by the Local Planning Authority

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

23. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 1, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

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

24. If during development of the site any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the owner shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented to the satisfaction of the Local Planning Authority.

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

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

Informatives:

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

2. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):

- facing materials, eaves and verge details, and cill and lintel details;
- rooflight, porch and bay canopy details;
- surfacing materials and patterns;
- boundary treatments (including materials thereof); and
- if applicable, details of a management and maintenance strategy for any highways not adopted under an agreement pursuant to section 38 of the Highways Act 1980, nor conveyed to individual property owners.

You should also ensure that the reserved matters ensure that (1) all exposed housing elevations are well treated to allow a view between interiors and external space; (2) where housing is set in blocks of more than two properties rear garden access should originate within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less; (3) enclosed parking courtyards are best gated or overlooked; and (4) the open aspects of the footpath route and proposed links are not compromised by any landscaping sited between footpath and the development.

3. For further assistance in complying with planning conditions and other legal requirements applicants should consult 'Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated'. This document has been produced by local authorities in Derbyshire to assist developers, and is available from www.south-derbys.gov.uk. Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Health Department (email: pollution.control@south-derbys.gov.uk).

Further guidance can be obtained from the following:

- CLR 11: Model Procedures for the Management of Contaminated

Land

- CLR guidance notes on Soil Guideline Values, DEFRA and EA
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

4. The site is affected by a Prescribed Building Line under the Road Improvement Act 1925. It is an offence to undertake building works in advance of the line; however, it is possible for the applicant to apply to rescind the lines. The applicant is advised to contact the Economy, Transport and Environment Department at County Hall, Matlock at least 6 weeks before commencing works, requesting that the line be removed and confirming that they will meet the Authority's administrative and legal costs. For further information contact ETC.highwaysextents@derbyshire.gov.uk.

5. The application site is abutted by a Public Rights of Way (Footpath 11 in the Parish of Hilton, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.

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

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. For the use or re-use of sewer connections, either direct or indirect to the public sewerage system, the developer/owner will be required to make a formal application to Severn Trent Water Ltd under Section 106 of the Water Industry Act 1991. Copies of current guidance notes and the application form

may be obtained from www.stwater.co.uk or by contacting the New Connections Team on 0800 707 6600.

9. The applicant is advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management (IAQM) for advice on how dust assessments should be performed. The assessment of the impacts of construction on local air quality should be undertaken following a risk based approach, as outlined in the IAQM document 'Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance'.

10. 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.

11. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.

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

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

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

13. Planning permission has been granted as set out in this decision notice. In granting planning permission the Local Planning Authority has had

regard to concerns expressed by the community regarding potential traffic problems in the locality that may arise during the construction of the development hereby permitted. Accordingly you are requested to ensure that your or any other contractors' vehicles are parked legally in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

01/05/2018

Item **1.3**

Ref. No. **9/2017/0816/MSO**

Applicant:
Mr Paul Shanley
C/O Agent

Agent:
Mr Tom Mills
Stride Treglown
Promenade House
Clifton Down
Clifton
Bristol
BS8 3NE

Proposal: **OUTLINE APPLICATION FOR THE DEVELOPMENT OF SITE FOR B2/B8 UNITS, EACH UNIT PROVIDING NO LESS THAN 15,000SQM OF FLOOR SPACE WITH ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL ON LAND TO THE NORTH OF DOVE VALLEY PARK PARK AVENUE FOSTON DERBY**

Ward: **HILTON**

Valid Date **04/08/2017**

Reason for committee determination

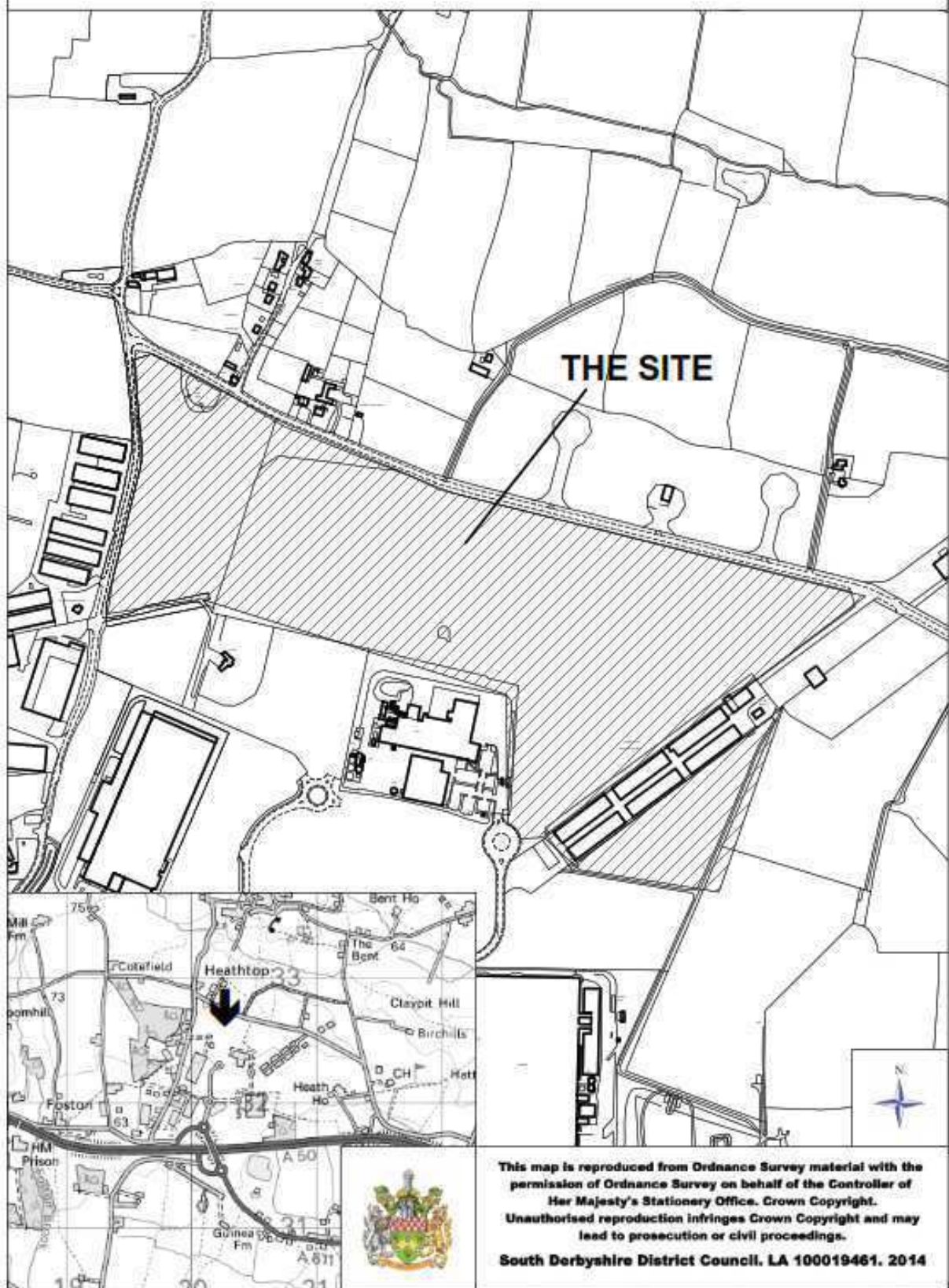
The item is presented to Committee as it is a major application subject to more than two objections.

Site Description

Dove Valley Park is located to the north of the A50 and is accessed via the A511 Uttoxeter Road and Packenham Boulevard. The main estate road through the Park is Park Avenue, with the industrial estate predominantly comprised of a number of large scale business units (in storage/distribution and general industrial uses). The application site itself is to the north of the current Muller Dairy. The site occupies an area of approximately 23.5 hectares.

The site is bound by an Unnamed Road to the north (from Cote Bottom Lane to Bent Lane) which serves a number of isolated residential properties, farmsteads and open fields to its northern side. The eastern edges of the site border the former military runway strip, where a set of industrial units exist, and open fields, beyond which is Bent Lane with properties at Heath House Farm and the Broughton Health Golf Club. To the west is Woodyard Lane which serves a number of commercial and industrial

9/2017/0816 - Land North of Dove Valley Park, Derby DE65 5BZ



units along its length as it heads south towards the A50, with woodland and farmland beyond.

There are 3 footpaths affected: Foston and Scropton footpath 27 to the north-western corner of the site; footpath 28 running north to south through the site from the Unnamed Road to the existing north-eastern roundabout on Park Avenue; and Church Broughton footpath 50 which enters the site in the north-eastern corner and terminates arbitrarily a short distance into the site.

Proposal

The application is made in outline with matters of layout, scale, appearance and landscaping reserved. Access is to be considered in detail. The proposal is for the erection of general industrial (use class B2) and storage and distribution (use class B8) units, with each unit no smaller than 15,000 square metres. With reference to an indicative layout plan provided, four plots are proposed (referenced P2-01 to 04 respectively) of varying sizes, all served by an extended estate road linking to the north-east roundabout on phase 1 (adjacent to the Muller Dairy premises). Plot P2-04 is indicatively shown as parking, ancillary to phase 2 as a whole, given that the relatively constrained shape of the site makes it difficult to provide the minimum floor space of 15,000 square metres. The proposed heights of buildings are likely to be similar to that of the units presently within Phase 1 and has been indicated to be no more than 15 metres, although this is a reserved matter at this stage.

Entry into Dove Valley Park, as a whole, is currently provided via Pakenham Boulevard and Park Avenue, from the A50. This would remain unchanged. The access to phase 2, however, would be formed from the two existing roundabouts within the site, located south-east and south-west of the Muller Dairy premises. A loop access road would be provided around the perimeter of those premises to serve the site, with an existing permission (ref. 9/2010/0872) including part of this access road which lies outside of this site (on plot 5500, west of the Muller Dairy). Pedestrian access would mirror those already provided within Dove Valley Park Phase 1, whilst it is proposed that, subject to grant of permission, diversions and extinguishments to the current PROWs would be applied for – the indicative layout showing a possible alternative route linking the Unnamed Road to the proposed estate road. It is also proposed to divert the current 401 bus service, linking Burton upon Trent to Uttoxeter. This diversion would ensure the service reaches proposed bus stop(s) within the site.

Sustainable Drainage Systems (SuDS) are proposed, comprising use of roofs and roads/hardstanding for conveying water and a large detention pond for attenuation in peak rainfall events. Flows would constantly run through this pond prior to discharging to the surface water sewer. It is proposed that the foul water sewer located in the south east of the site would cater for sewage flows.

Applicant's supporting information

A Planning Design & Access Statement responds to the site allocation requiring the provision of large scale Industrial and business units (B2 and B8), with a minimum gross internal floor space of 15,000 sqm. The provision of such units would provide a

large number of jobs within the area which would aid an improved local economy. This application has considered, in the context of an outline planning application, the potential impacts the development would have and provides, where appropriate, details of mitigation to ensure development would be acceptable. The proposals are considered to be in accordance with both local and national planning policy and should be supported positively. It is also requested, that a period of 10 years be offered for the submission of reserved matters, given the site requires installation of services and long term site preparation. A sufficient time frame is also required to attract large international companies. Given the minimum floor space of each unit needs to provide no less than 15,000 sqm, this would suggest a very refined and bespoke set of potential occupiers who would be interested in the site, and as each potential occupier is also likely to have specific requirements, designs would require additional time to cater to their specific needs.

The Transport Assessment notes single regular bus service (no. 401) which operates everyday along the A511, providing a service towards both Burton and Uttoxeter. A number of facilities and amenities are also located within a 1.6km walking distance from the site. Towns and villages including Foston and Hatton are situated within a sustainable commute from the site for potential employees. Capacity assessments have been undertaken at seven off-site junctions as discussed with both the County and Highways England to determine the impact the development would have on them. The results illustrate most junctions operate within theoretical capacity. One junction operates over capacity now such that no mitigation is provided at this stage to negate development impact. Another begins to operate over capacity during the 2027 scenario, but this is considered to have a negligible impact upon the overall operation of the junction. Incident data highlights that there are no accident concerns within the study area. Mitigation measures are proposed which include a Travel Plan, improvements to the existing crossings situated between the A511/Packenham Boulevard roundabout upgraded with tactile paving to assist with pedestrian movement, and a minor diversion of the 401 service towards Packenham Boulevard/Park Avenue with a new bus stop positioned along the western side of Packenham Boulevard in order to reduce current walking distances to bus service provision.

A Travel Plan has been produced for the site in order to reduce dependency on the car by encouraging increased use of sustainable transport modes including walking, cycling and public transport. The main measures included are information packs, promotion of cycling to and from work, promotion of car sharing and promotion of public transport use (both bus and rail).

A Flood Risk Assessment estimates that the impermeable area of the site following completion of the development would be increased to approximately 80%. There is a low risk of fluvial flooding to the south east of the site such that it is recommended that the ground floor level of all the buildings within the site are slightly elevated to ensure that any surface water flooding doesn't enter the new buildings. Initial investigations consider that infiltration drainage would not be a practical solution for the site, nor would discharge to a watercourse as there are no accessible watercourses close to the site. Therefore, the existing surface water sewer within the Phase 1 development would be used. It is considered that the site currently discharges runoff via a combination of infiltration, evaporation and overland flow to

the south (the Phase 1 development). The site would discharge into the existing 1200mm diameter sewer to the south of the site within the Phase 1 development at a peak discharge rate of 3222l/s. Attenuation would be provided within a balancing pond, used to accommodate the storage the worst case scenario storm. It is proposed to provide a hydro-brake to restrict flows from the site, reducing the runoff from the site during higher return periods. It is considered there would be a significant reduction in runoff and the proposed solution would provide significant betterment.

The Landscape Assessment finds the site is not covered by any statutory or non-statutory designations for landscape character or quality and none of the trees within the site are covered by Tree Preservation Orders. The site has been degraded by its past use as an airfield and the runway and dispersal areas are still evident on the ground. A significant part of the former airfield has already been redeveloped for employment uses and these buildings clearly exert an influence on the character of the site. Views of the site are for the most part localised and seen within the context of existing buildings. There are some opportunities for longer distance views but these are too distant to be considered significant. Hence it is considered, subject to the provision of tree planting, appropriate ground modelling on the external boundaries of the site and assuming the new development is of a similar scale and coverage to that within Dove Valley Park; release of the land for employment development should not give rise to any significant effects on the character or quality of the surrounding landscape.

An Arboricultural Assessment finds that in order to facilitate the development a small loss of tree cover shall be required which comprised trees of a moderate to low arboricultural quality (categories B and C). None of the high quality trees assessed (boundary trees to the north-west corner of the site) are to be removed with each of these trees being retained under the proposals. The former land use and historic management has led to the sporadic distribution of tree cover which does not lend itself to the integration of a development of the type being proposed. Therefore it would be considered that no matter how sympathetically the layout is designed, the loss of tree cover is unavoidable and these losses should not be seen as a constraint to the development. The proposed development does provide an opportunity to mitigate the loss of these specimens, however, through new tree planting supplied as part of a robust supporting landscape scheme.

An Ecological Report (along with a Bird Breeding Report and a Herpetofauna Report) notes there are no sites of international conservation value within 5km of the site boundary and no sites of national significance within 2km. There are three Local Wildlife Sites (LWSs) within 1km of the site, the closest being Coneygreave and Rough Woods around 100m west to the other side of Woodyard Lane. The site is designated for ancient woodland habitat. No significant impacts to its conservation status are anticipated. The site is dominated by species-poor grassland and arable compartments with tall herb/ruderal and scrub vegetation (both scattered and dense), the majority of which comprises species-poor habitats of limited botanical or conservation value. Tree and hedgerows within the site have some intrinsic value and should be retained where possible, although where trees/hedgerows are to be lost, native planting should be used as compensation. A series of three ponds were recorded within or within the wider business park and considered to have between

'good' and 'poor' ecological suitability. One pond is to be lost as part of the development and terrestrial habitats had some interest for amphibians in the form of grassland, ruderal, scrub and other habitats (such as rubble piles). Therefore, further aquatic surveys were undertaken during which none were recorded. As such there are no amphibian constraints at this stage. Two trees were recorded with the potential to support roosting bats but no roosts were confirmed. Linear features such as treelines and hedges were suitable for foraging and commuting bats, all of which would be retained and buffered, thereby negating any impacts. Providing good practice lighting is implemented, no further nocturnal survey is considered necessary. The trees/hedgerows and scrub/ruderal on site were considered to have value for nesting birds but no nest sites were observed. The general habitats are of some value for nesting and breeding birds and although there are no records of notable records within or directly adjacent to the site, arable species such as skylark are known to be present in the area and Hilton Gravel Pits SSSI (circa 3.5km east) is known to support this species. Therefore breeding bird surveys were undertaken during which some limited value for birds was noted and as such good practice/mitigation has been recommended. The site had varying value for reptiles with central areas of the site considered to be too homogenous/short to provide significant potential, but the mosaic of grassland/scrub/ruderal habitats considered to provide suitable to support reptile shelter and hibernation. Therefore further presence/absence surveys were undertaken and a small population of common lizard was noted. Based on this, good practice mitigation/enhancement has been recommended. No other species constraints were identified.

An Archaeological Desk Based Assessment finds the proposed development would not impact upon any designated archaeological assets. Cropmarks observed from aerial photographs to extend into the south-east of the site are representative of former post-Medieval field boundaries removed prior to the construction of Church Broughton Airfield. The site is considered to have good archaeological potential for remains associated with the airfield, but archaeological evidence is therefore considered to be of local significance. Consequently all further mitigation measures could follow planning permission secured by an appropriately worded planning condition.

Draft Heads of Terms for a section 106 agreement set out that the applicant would enter into discussions related to any highway improvements obligations that may be required to ensure impacts are acceptable. Contributions are proposed to be related to the provision of a bus shelter, as per the Transport Assessment. For this reason a contribution is proposed to bus service enhancements, specifically the addition of a new bus stop. These enhancements would include the provision of shelter provision, raised kerbs and timetable information.

Planning History

The wider Dove Valley Park comprises two phases. Phase 1 is fairly well established, although some vacant plots still exist. There is a considerable list of applications relating to that phase, but those of note are:

9/590/155/O Outline application for erection of business and industrial units on approximately 83 hectares of land – Approved May 1992 and

renewed under 9/0595/0170 in August 1995 and varied under 9/0897/045, 9/2005/0758 (to extend the time period to submit reserved matters) and 9/2005/1078 (to amend the limit on the floor space allowed on site)

- | | |
|-------------|--|
| 9/1993/0445 | Reserved matters for the formation of estate roads together with the implementation of a landscaping scheme – Approved September 1993 and amended under 9/2004/0796 in October 2004 |
| 9/2001/0067 | Reserved matters for erection of food manufacturing building and ancillary buildings at plot 4000/4500 – Approved March 2001 |
| 9/2001/0306 | Reserved matters for erection of manufacturing warehousing and distribution at plot 1000 – Approved May 2001 |
| 9/2001/0770 | Reserved matters for erection of commercial facility at plot 2500 – Approved November 2001 |
| 9/2001/0884 | Reserved matters for provision of a new community facility falling within classification B1, B2 and B8 at plot 5000 – Approved December 2001 and amended under 9/2005/0264 in May 2005 |
| 9/2004/1477 | Reserved matters for construction of a new commercial factory and office facility in substitution of office and warehouse permitted under 9/2001/0884 – Approved December 2004 |
| 9/2005/0245 | Reserved matters for erection of assembly and distribution facility at plot 2000 – Approved April 2005 and factory and car park extended under 9/2010/0335 in June 2010 |
| 9/2010/0868 | Reserved matters for erection of plot 2100A – Approved November 2010 |
| 9/2010/0869 | Reserved matters for erection of plot 2100B – Approved November 2010 |
| 9/2010/0870 | Reserved matters for erection of plot 2050 – Approved November 2010 |
| 9/2010/0871 | Reserved matters for erection of plot 3000 – Approved November 2010 |
| 9/2010/0872 | Reserved matters for erection of plot 5500 – Approved November 2010 |
| 9/2011/0200 | Construction of despatch two storey extension with associated trolley delivery canopy and single storey airlock extension at plot 4000 (Dairy Crest) – Approved June 2011 |

- 9/2011/0609 The erection of a milk process pipe work enclosure, a fully enclosed cream tank enclosure, forklift charging bay, engineers workshop, high level link transfer bridge and treatment enclosure – Approved September 2011 with amended scheme under 9/2011/0913 approved December 2012

- 9/2015/0499 The erection of a building for B2 (general industry)/B8 (storage & distribution) purposes – Approved August 2015

- 9/2015/0774 The erection of 5 buildings for additional warehouse use – Approved November 2015

- EA/2017/0001 Screening request for B2 and/or B8 commercial development on land to the north of Dove Valley Park (phase 2) – Screening opinion issued March 2015 (not EIA development)

Responses to Consultations

Highways England offers no objection.

The County Highway Authority, following clarification over ownership of land to facilitate access to the parking area and the completion of the loop being pursuant to an extant permission, has no objection subject to conditions to ensure acceptable impacts on the existing highway network during the construction phase, for creation of the access to Park Avenue, and provision of adequate vehicle and cycling parking facilities (determined under reserved matters) prior to each unit being occupied. They also seek that the submitted Travel Plan be adhered to with a monitoring fee of £15,000 to be secured under a planning obligation. They also advise that it is unlikely they would adopt the 'loop' created given it serves no useful purpose as public highway, and measures should be considered to ensure its long term management and maintenance.

The Economic Development Manager notes that opening up the additional land at Dove Valley Park is very much welcomed from an economic development perspective. The objectives of the Economic Development Strategy include the attraction of inward investment, promotion of the area's key sectors, such as manufacturing, and the provision of a range of sites and premises. Dove Valley Park has proven to be a very attractive business location. Development to date has shown that it is capable of successfully competing to attract national and international inward investment to South Derbyshire. This is providing growing employment in the manufacture of high quality and innovative products across a range of sectors, from automotive components, to processed agricultural products, to modular homes. The new land would encompass larger plots which are not currently on offer in the District, broadening the range of investments that can be attracted to South Derbyshire and the ability of the site to compete with locations elsewhere. It is also noted that South Derbyshire has a rapidly growing population, with a necessity to offer an increasing number and range of employment opportunities to meet their needs.

The County Planning Officer notes the possible presence of sand and gravel at this location. However, from knowledge of other past developments in the area, it is likely that the quality of the resource here is fairly poor as is often the case in these areas more distant from the river. However, because of the size of the proposed site, it is recommended that the applicant be made aware of the presence of underlying sand and gravel and to ask for some analysis of the resource to determine its quality and quantity and whether it would be practicable to consider extraction as part of the development.

The Development Control Archaeologist notes that the site covers part of the former WWII Church Broughton airfield, which appears on the Derbyshire Historic Environment Record (HER), some features of which still survive to the north and east of the proposed development site. In addition, the HER also holds information on a series of cropmarks which occur within the south-eastern sector of the site – mainly linear and potentially related to field boundaries removed prior to the construction of the airfield, although at least some may be pre-enclosure features and possibly of Iron Age or Romano-British date. It was advised that archaeological evaluation is necessary to understand the archaeological significance of the site as required in the NPPF (paras 128/129) and this should involve geophysical survey of the site. Notwithstanding this, it was recognised that because field evaluation is a phased process it is often possible to take a flexible approach, particularly where an application is for outline consent. As such it was initially considered that any trial trenching evaluation could be deferred to a stage following outline consent, but the geophysical survey (first phase of evaluation) should be completed prior to determination. Following further consideration, it is felt that further survey works can be deferred to after a grant of outline consent, but before submission of reserved matters, although that as the staged process can take some time the field evaluation should be undertaken as soon as possible.

The Lead Local Flood Authority (LLFA) presently hold an objection to the proposal, despite requests for clarification and justification as to why the proposed discharge rate for surface water cannot be reduced. They confirm they assess applications using current legislation/guidance and support the use of DEFRA's Non-Statutory Technical Standards when designing surface water drainage, as they support the principles of NPPF to prevent any increase in flood risk and utilise opportunities provided by development to improve the existing situation.

The drainage strategy is to discharge surface water through the existing surface water sewer system that was constructed as part of phase 1. The existing network appears to drain to Watery Lane, Scropton, and it is highlighted that Scropton has a history of flooding. The LLFA are keen to ensure that flooding is not exacerbated as a result of the proposed development. Discharge would be restricted to a maximum of 3222l/s, and whilst it is noted that the FRA states this to be an improvement on the existing system, the Non-Statutory Technical Standards state that the discharge should be limited to the greenfield rate or as practicably close to that rate as possible. It is noted that the applicant has provided no information to suggest that this has been considered. Given the FRA confirms that the site comprises several agricultural fields, which would indicate that it is currently greenfield and it appears not to be presently draining to the existing phase 1 surface water drainage system; the development should comply with the current guidance (requiring the greenfield

runoff rate from the 1 in 1 year to the 1 in 100 year rainfall event is not exceeded post-development for the same event).

The Environment Agency has commented in respect of protection of Controlled Water and linked environmental receptors. They note that no significant or widespread contamination has been identified previously at the site. Hence, provided this information is representative of site conditions, the development is unlikely to present a significant risk to Controlled Water receptors. They confirm that they do not require any further works or assessment, and do not object.

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

The Environmental Health Officer has no objection in principle, but seeks conditions to control noise during the construction and operational phases, and no burning of waste on the site.

Derbyshire Wildlife Trust notes that whilst one of two ponds would be lost to the development, it is of poor condition would be suitably compensated for by the creation of the new drainage pond. From the results of the surveys, they advise that there are unlikely to be any great crested newt issues. In order to prevent harm to the lizard population identified, and to enhance the population post-construction, a condition is recommended to control the construction phase and provide for mitigation for lost/displaced habitat. Furthermore, the Trust seeks a landscape and ecological management plan (LEMP) in the long-term in the interests of biodiversity.

They also note that an appropriate bird survey confirmed Lapwing to be breeding and Skylark possibly breeding. Both species are priority ground nesting bird species which would be lost from the site as a result of the loss of arable land. Whilst supporting the mitigation and compensation/enhancement measures proposed, the Trust advises that insufficient consideration has been given to compensation for impacts on lapwing and skylark in that no compensatory habitat has been proposed. Whilst it is noted that the applicant states that the birds are likely to be displaced onto adjacent arable farmland, which is widely available in the area; this is considered to be too vague and does not specify where this alternative habitat is located or in what sense it can be viewed as compensatory given that it is presumably outside the control of the applicant. Furthermore, the displacement to existing nearby land that may already support ground nesting bird species cannot be considered as compensatory, whilst if surrounding land is not already used, that could suggest it is unsuitable and would need to be enhanced to provide suitable habitat. The Trust remains of the view that the applicant should take responsibility for the impacts associated with the proposal and should not merely rely upon the availability of suitable nearby land outside of their control. Nonetheless, at the time of writing the Trust is continuing to explore the scope for off-site mitigation.

Peak and Northern Footpaths comments that the site affects public footpaths and it appears two of these have been ignored in the indicative layout. They advise that the layout must accommodate these paths on their legal lines and with their legal widths, or they must be legally diverted on to suitable alternative routes. The full widths of the paths must remain open and unobstructed until such time that legal orders have been confirmed.

Responses to Publicity

Foston and Scropton Parish Council make the following comments:

- i) building on the land increases risk of flooding in Scropton and elsewhere;
- ii) light pollution must be kept to a minimum;
- iii) surrounding roads are not suitable for continuous heavy traffic;
- iv) proposed screening must be implemented and completed before the site is completed; and
- v) the Parish expect to receive financial contributions.

9 objections have been received, raising the following concerns:

- a) Foston and Scropton footpath 28 passes through the site and there are no details of the layout such that it is impossible to determine if the footpath would be obstructed by any of the buildings;
- b) increased heavy traffic on the already congested [Woodyard] Lane leading up to Heath Top;
- c) surrounding roads are not capable of taking any more traffic, with it a safety issue already;
- d) lorries already park of neighbouring roads and construction vehicles would add to the danger (including by depositing material on the highway);
- e) increase in light pollution;
- f) increase in noise pollution;
- g) risk of odour pollution;
- h) construction noise, volume of traffic and general new business noise would create a risk of 'spooking' the poultry, causing smotherers;
- i) operations should be restricted between the hours of 22:00 to 07:00;
- j) environmental and visual impact of further expansion of this site;
- k) it is already an eyesore;
- l) the Environmental Statement to phase 1 committed to a high quality development in a heavily landscaped setting and the northern and western boundaries would be heavily landscaped, the buildings would be low rise to reflect the location of the site within flat open countryside, and consideration would be given to woodland creation. To date, none of these commitments have been complied with, with only very sparse planting of trees to the north of phase 1;
- m) planting should take place prior to any development of the site, so that the landscaping can grow and develop whilst any construction takes place;
- n) in order to prevent any future detriment to the local community, the landscaping should be made subject of a Tree Protection Order (TPO);
- o) the planting of dense landscaping with trees would go a long way to ensuring that the impact on the local community would be kept to a minimum;
- p) effect on wildlife and their habitat, in particular the Black Redstart and frogs, toads and newts around the north-western pond;
- q) increase in litter/rubbish;
- r) the suggested location and size of the attenuation pond would attract wild birds close to a turkey business, creates a risk of Avian Influenza that is carried by some migratory birds;

- s) the development would have a severe impact on an existing agricultural business and the welfare of poultry;
- t) loss of agricultural land when brownfield opportunities exist; and
- u) devaluation of property.

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

- a) this is a well thought-out plan developing a scruffy looking area, with the landscaping vastly improving the area;
- b) this is an obvious extension of the site
- c) it would bring employment and economic benefits to the area;
- d) Dove Valley Park has, over the years, created extensive and good employment on what was the site of a derelict old airfield;
- e) the site is ideally located adjacent to the A50 and as a consequence has little impact on the surrounding area;
- f) the area has a substantial area of reclaimed runway with limited agricultural value; and
- g) it is identified in the Local Plan for employment growth.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E5 (Safeguarded Employment Sites Dove Valley Park), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF7 (Green Infrastructure)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Environmental Impact Assessment

The proposal was screened under Regulation 5 of the Environmental Impact Assessment (EIA) Regulations 2011, following the submission of a request in March

2017. The proposal is considered to fall within paragraph 10(a) of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Considerations

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

- The principle of development;
- Matters of access and highway capacity/safety;
- Effect on public rights of way;
- Cultural heritage;
- Drainage;
- Landscaping and visual impact;
- Biodiversity impacts;
- Effect on neighbouring amenity; and
- Section 106 obligations and length of permission.

Planning Assessment

The principle of development

Whilst the site lies outside of a settlement boundary, and thus within the rural area of the District; the principle of this development is supported by LP1 policies S5, E1 and E5. Policy S5 sets out that across the Plan period, provision will be made across a range of sites, including allocations, for a minimum of 53 hectares (net) for industrial and business development in support of the Economic Strategies of the Council and the D2N2 Local Enterprise Partnership. Policy E1 identifies 19.27 hectares of committed land at Dove Valley Park (phase 1) whilst policy E5 allocates a further 28.3 hectares to the north of phase 1 for the development of large scale industrial and business units, in use classes B2 and B8. The policy makes clear that the *minimum* gross internal floor area per unit shall be 15,000 square metres, so to recognise the demand for units of an exceptionally large scale for businesses in the manufacturing and logistic sectors, particularly along the A50 corridor. The proposed development would inevitably attract key inward investors and key employers to the area, assisting in driving further economic development elsewhere in the District. Significant weight is afforded to the delivery of this proposal as a result.

The potential sterilisation of minerals has been considered. The likelihood of suitable reserves being present at the site is somewhat questionable with the County recognising that the quality of the resource is likely to be fairly poor. This affects the overall viability of extraction in any case. The historical records also indicate that the site may have been used for landfilling prior to its use as a military airbase, suggesting that minerals may have already been extracted here. Furthermore, whilst a large area, its shape and proximity to residential receptors would limit the area in which workings could take place. The applicant notes policy MP17 of the County's Minerals Local Plan which states that proposals for development which would sterilise or prejudice the future working of important economically workable mineral

deposits will be resisted except where there is an overriding need for the development. The above paragraph is considered to demonstrate the overriding need in this circumstance, and the County Planning Officer has indicated that they would not contest this matter further.

Matters of access and highway capacity/safety

The access arrangements build on the existing single point of access to the A511 and A50. The existing estate roads would provide for two routes into this site, connecting to provide a loop over time – although this is for consideration under the the layout reserved matter. The capacity of the roundabouts and wider strategic network to accommodate the additional movements is noted, but it is not of concern to either Highways England or the County Highway Authority; whilst it is notable that no direct vehicular access to the local road network (Unnamed Road, Bent Lane and Woodyard Lane) are proposed. As a consequence, and when considering the modal choices of movement to and from the site, HGV traffic is likely to originate from the A50 and depart along that route. Employee vehicles would similarly arrive and depart along the same route, albeit there would be a number of movements along the A511 and surrounding network from employees living more locally. Nonetheless, this impact is not a cause for concern.

It is notable that part D of LP1 policy INF2 requires adequate provision for service vehicle access, manoeuvring and off-street parking. There is no concern that this would be achieved, with the indicative layout demonstrating suitable space around the units to accommodate parking. The quantum of this can be set with regards to the County's guidance at the reserved matters stage. Policy INF2(D) also protects land the south-east of the A50 and A511 junction for the development of a roadside lorry park including lorry parking, refuelling and driver facilities (the former permission having expired). Whilst not providing for refuelling and driver facilities, it is of some merit that there could be some informal provision within Dove Valley Park.

Policy INF2 also requires that car travel generated by the development is minimised. The Applicant proposes the establishment of a new bus stop on Pakenham Boulevard and an extension of the existing 401 service to enter the site and use this new facility. Further negotiations have agreed the principle of funding the service for 12 months, so to allow the operator to 'test the market' for a permanently extended service through the site. The timing of this provision would be deferred to a later stage of the development when occupancy rates have risen to an optimum level, although the exact time of this trigger is still under consideration. This trigger would also command the installation of a bus stop(s) on the estate roads – noting that it may be necessary to look at further stops around 'the loop' so to make the service as attractive as possible (noting walking distances from phase 2 to Pakenham Boulevard). Consideration would also need to be given to the running of the service outside of the usual AM lunchtime and PM peaks for employment parks, given modern shift patterns particularly in regard to 24 hour operations. These objectives could be secured by way of financial contributions, whilst they would be promoted through a Travel Plan (to be monitored on the back of financial contributions).

Effect on public rights of way (PRoW)

The proposal would have a range of impacts on existing PRowS. Foston and Scropton footpath 27 crosses the north-western corner of the site, from the Unnamed Road to Woodyard Lane. The indicative layout suggests this route would be maintained, although it is noted that layout remains a reserved matter. Foston and Scropton footpath 28 presently runs roughly north to south through the centre of the site, from the Unnamed Road to the existing north-eastern roundabout on Park Avenue. The indicative layout provides scope for this route to be maintained, although it would likely need to be diverted. Given the route is not presently direct; this could represent an improvement on the existing situation. Church Broughton footpath 50 enters the site in the north-eastern corner and terminates arbitrarily a short distance into the site. The extinguishment of this route is unlikely to be detrimental, given it provides for no through route. Notwithstanding this discussion, any alteration to the legal alignment of these PRowS will require separate approval at a later stage. Given the application is made in outline with layout reserved, it is appropriate to defer that action until a later date.

Cultural heritage

The response of the County Archaeologist is noted. It is understood that their preference, notwithstanding their comments, is for a geophysical study and scheme of trial trenching to be carried out prior to determination. Both LP1 policy BNE2 and LP2 policy BNE10 rest on the principles of paragraph 128 of the NPPF:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”.

Policy BNE10 requires the proposal to be accompanied by an archaeological evaluation of the site and a statement demonstrating how it is intended to overcome any archaeological constraints. It goes on to state that development will be resisted where it would result in the loss of or substantial harm to archaeological sites which are of equivalent significance to Scheduled Monuments (echoing paragraph 139 of the NPPF). It also confirms that development affecting non-designated archaeological sites will be assessed having regard to the scale of any harm and the significance of the site, with measures undertaken to minimise impact and, where possible, to preserve the site in situ.

The issue with the applicant’s submission is that whilst the desk based assessment appears to be adequate, it indicates the need for a geo-physical survey given elevated potential for the site to harbour interest. The survey is intended to inform a scheme of trial trenching, if found to be proportionate. This survey has not been provided however. The County Archaeologist therefore previously expressed

concerns that in the absence of information, it is not possible to determine the significance of any heritage assets affected and that paragraph 128 does not stop at just requiring an appropriate desk-based assessment in these circumstances – it seeks, where necessary, a field evaluation. This is considered to be such a circumstance.

In seeking to address this conflict, consideration has been given to the manner of application made, as well as the likely significance of any finds – relative to the policy position as set out above. The site is not felt likely to hold interest which would be comparable to a scheduled monument status, and this must have been a consideration at the time the site was allocated in the LP1. In addition, there is some indication of former working of the land with subsequent infilling, which would likely have led to the loss of pre-war interest. Accordingly, policy BNE10 does not point towards resisting the proposal in principle, but accommodating and/or recording any interest, proportionate to its significance. In short, if further survey work did reveal interest, it is already unlikely to result in sterilisation of the site, or parts of it. Even if there was a need to retain in-situ, as the application is made in outline with layout reserved there remains scope to do so. The requirement for work to be carried out before a layout is 'set' is thus proportionate and allows the proposal to accord with policies BNE2 and BNE10.

Drainage

The position of the LLFA is set out above. The applicant relies on the FRA and the scope of the original 1993 Drainage Strategy to justify use of the existing storm sewer system on phase 1, and the subsequent rate of discharge proposed. The applicant's stance is also noted – that the 1993 Strategy states a rate of 530l/s from the total site of 83ha, which equates to 6.4l/s per hectare, which is similar to greenfield runoff rate of 5l/s. However, the LLFA notes correspondence in the 1993 report states that full attenuation does not have to be provided on day one, but instead as a phased programme of construction; whilst it also states that the storm water retention volume required at any time is that associated with the particular phase of development under construction. This therefore does not give certainty that the full attenuation system modelled at that time has been constructed under phase 1, and subsequently there may not be enough storage in the downstream network. The applicant, in response, highlights that the Sewer Capacity Assessment (SCA) carried out by Severn Trent Water (as part of the FRA) which finds that capacity improvements for surface water are not likely to be required. Nonetheless this same SCA confirms that, irrespectively, *"the developer will need to seek the approval from the Local Lead Flood Authority (LLFA) for the discharge rate as the surface water sewer discharges immediately to a pond and watercourse"*. It thus remains necessary to secure the LLFA's acceptance of the proposed discharge rate, but efforts to resolve this by having Severn Trent Water update and 're-run' the SCA have not been fruitful (Severn Trent Water not presently progressing such Assessments whilst it addresses its new obligations to fund its own modelling works).

The key is to ensure sufficient attenuation within phase 2, and phase 1 if feasible and appropriate (given much of this land remains in the control of the applicant). As with the archaeological matter above, it remains possible to provide greater open

attenuation as part of the detail of layout (including swales, as recognised by the applicant in updating the FRA), and it could also be possible to provide below ground storage, such as chambers and oversized pipes. With use of hydro-brakes to control the release of water from these features to the existing phase 1 sewer network, there appears to be scope to suitably drain the site at an appropriate rate. This approach could be secured by way of a 'Grampian' condition, timed to ensure that the design of the surface water drainage scheme informs the layout at reserved matters and does not exceed greenfield rate without adequate justification. Given the known surface water flooding issues downstream, this is a wholly appropriate stance given the residual uncertainty at this point in time.

In terms of foul water drainage, there appears to be a suitable connection point and capacity within the sewer network to receive flows. In any case, it is not necessary from a planning perspective to know how foul flows will be dealt with. Drainage companies have an obligation under section 94 of the Water Industry Act 1991 to effectually drain their area. Whilst it is apparent neither the developer nor Severn Trent Water knows the nature of any works required, it will fall on Severn Trent Water under their statutory duties to identify and implement a solution that discharges their statutory obligations.

Landscaping and visual impact

The surrounding landscape is characterised by a gently undulating landform with pockets of deciduous woodland and established field hedgerows. The former airfield itself is largely open save for the occasional patch of scrub and belt of tree planting. To the south of the site, the existing phase 1 development along with the A50 and A511 are prominent features of the local landscape. The site gently slopes from north-west to south-east with the total difference being around 8 metres. To the south of the site the land gently falls towards the River Dove before rising again on the opposite side of the valley where long distance views of the existing and proposed sites are possible. To the north of the site the land gently rises to a ridgeline before falling away to Church Broughton. This assists in screening the site to some degree from PRoWs to the north, although the gentle topography means structures at height would be visible. Evidently, the PRoWs crossing the site provide for unfettered views of phase 1 and the proposed development area.

On site, a distinction can be made between the former airfield and surrounding landscape, with the former airfield already partially redeveloped for employment uses and in those areas that have not, the runways and dispersal areas are either still evident or have been assimilated into the agricultural use of the site. Beyond the airfield, the landscape has a more rural quality and comprises a mix of pasture and arable farmland. Conygree Wood and Rough Wood, which lie immediately to the west of Woodyard Lane, are prominent features. The boundary with Woodyard Lane comprises established and continuous hedgerow, which contains established trees. On the opposite side of the lane are a number of agricultural sheds which abut Conygree Wood. The northern boundary follows the Unnamed Road and is relatively open save for a cluster of trees by a pond in the north-west corner of the site. The eastern boundary follows the northern edge of the former runway, which in-part carries a line of trees adjacent to agricultural buildings, before abutting the northern boundary of phase 1. This southern boundary is, for the most part, formed by a

landscaped bund which partially screens the industrial units. Further east, views from Bent Lane are largely unabated, with a combination of tightly trimmed or absent hedgerow allowing clear aspects back towards the site.

As a consequence of the above, near and middle distance views of the site are mostly confined to the north and east. Longer distance views are available from the southern slope of the Dove valley, but these are not considered significant. The proposed development would also sit in context with the existing phase 1 development on the A50 corridor. With this in mind, the impact on national and local landscape character is not considered to be significant, whilst the more localised visual impacts can be minimised by way of appropriate buffer planting. It is noted that a previous implemented permission (ref: 9/2004/0796) provides scope for a landscaping bund to surround the external perimeter of the wider site (i.e. including the northern and eastern boundaries). The purpose of that application, amongst other things, was to provide a long-term screen for the wider site and included a tree and planting schedule, to further mitigate future impacts of development. To date this has not been carried out along the Unnamed Road and it is recognised that the mitigation intended to date has not been achieved. To this end, it would be appropriate for the timing of landscaping provision, following approval of reserved matters (which provides the scope to revise the detail of the buffer), to be brought forward so that it is implemented prior to the first occupation of a unit on phase 2.

Biodiversity impacts

The Phase 1 Habitat Survey identifies the site to comprise a mixture of semi-natural habitats including scrub, trees, hedgerows, tall ruderal vegetation, semi-improved grassland, arable land, ponds and ditches. In terms of impact on protected species, there is little concern here subject to appropriate mitigation and enhancement. The main focus is on ground nesting birds – namely Lapwing and Skylark. The concerns of the Wildlife Trust are noted and it seems that it is not possible to provide for compensatory land to secure equivalent habitat. Nonetheless, it must be remembered that the essence of this site being developed for employment purposes is enshrined in the LP1. It is not a protected ecological designation in the same way that similar arable land elsewhere in the District can provide for suitable ground nesting bird habitat, but it can be altered at any time. This site is partly put to pasture, limiting the desirability of its use by breeding birds, whilst the arable parts are routinely ploughed and cropped when having regard to aerial photography. Whilst the loss of habitat is not ideal, it is not considered that a refusal could turn on this point – particularly when the NPPF requires impacts on biodiversity to be minimised (i.e. not ameliorated) and only commands refusal if significant harm results from a development. It also notes that planning permission should only be refused when development results in the loss or deterioration of *irreplaceable* habitats, unless the need for, and benefits of, the development in that location clearly outweighs the loss. This stance aligns with LP1 policy BNE3 which also specifies the need to achieve significant harm in order to warrant refusal. It is not considered that this level of harm is achieved.

Notwithstanding the above position, at the time of writing dialogue with the Trust is continuing with a view to securing off-site compensation if this is feasible. This may be through securing mitigation as part of crop rotation by a willing farmer in the

locality, or possibly by securing a financial contribution for the Trust to purchase agricultural land so they may provide the compensatory habitat. Neither of these are certain at this point in time, but an update will be provided to Members at the meeting if a solution can be secured as this would reduce the degree of harm arising, which presently forms part of the final planning balance.

Effect on neighbouring amenity

The site would result in B2 and B8 units being sited closer to residential properties than might already exist. This is not a wholly new concept however, given the site's inclusion within the Local Plan. Whilst layout, scale, appearance and landscaping are reserved matters, the indicative layout points towards two of the three likely units either turning their back on the Unnamed Road or being at some distance from nearby residential properties along that route. The north-western unit indicates the potential for loading areas on its northern and southern sides, although this could be considered further as part of the layout reserved matter.

In any case, a landscaping bund along the northern edge of the site along with appropriate noise control measures for each unit, secured by condition, are considered to suitably reduce noise and disturbance concerns. Lighting of the site can be subject to conditional approval, and noise from the construction phase can also be appropriately controlled.

Section 106 obligations and length of permission

It is noted that the Parish expect to receive financial contributions from the development. However, any such contributions must arise from a direct impact on their infrastructure. As an employment site, the only likely perceived effects would be to the highway network for which there is no objection from the County Highway Authority (the correct party to receive such sums if they were to be levied). Section 106 contributions cannot be arbitrarily gained given the CIL Regulations, such that the Parish's request cannot be sustained.

The provision of a bus service to the site however is a matter which requires an obligation to be secured. The provision of stops on the existing and proposed estate roads would also be a necessary component of this. Given their provision rests on the timing of (initially) a trial extension to the bus route, it is logical to link such a trigger to the point in time where that service is delivered. However, the service should not be extended too early as the operator is less likely to continue the extended service if there is not sufficient 'critical mass' to sustain it. There will also be a need to enshrine the promotion of the availability of this service to existing and proposed tenants once it is available, and this should form part of the Travel Plan as and when – a Travel Plan to also be monitored by the County Council pursuant to a financial contribution to also be secured under Section 106.

It is noted that the applicant requests a period of 10 years for the submission of reserved matters. This is argued on the basis of extended site preparation and also a sufficient time frame to attract large international companies – potential occupiers who are likely to have specific requirements. These points are appreciated although the lifetime of the Local Plan must be recognised. In order to achieve its objectives,

the floorspace should be provided before 2028. Offering 10 years would present a risk of this objective being missed. With the usual requirement for implementation of reserved matters being 2 years from the latest approval, a period of 8 years would be acceptable instead. It is also noted that the preparatory works would bring about the material to create the landscaped bund, and this is a feature which requires early delivery to mitigate the impact of development. Reducing the timeframe for submission of reserved matters also assists in realising this objective.

Summary

The starting point for this application is the allocation of the site in the LP1. The very fact it benefits from this presumption in support of the development indicates that the sustainability appraisal that informed the Local Plan has already considered that the 'in principle' effects on archaeology, drainage and biodiversity would be acceptable, subject to conditions and/or obligations. That remains the view now. Hence, whilst there are less than ideal outcomes in respect of these matters, it appears likely that a positive resolution to these residual points could be addressed by condition and/or obligations, with continued efforts ongoing at the time of writing this report. With the significant employment and investment benefits of the proposal firmly in mind, and all other matters being considered acceptable, the low risk of limited harms do not weigh heavily in the balance when considering the primary point raised above.

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

Recommendation

- A. Grant delegated authority to the Planning Services Manager to negotiate the bus service provisions as set out in the report and subsequently complete a Section 106 Agreement to secure the agreed scheme and associated financial contribution, and the Travel Plan monitoring and (if possible) biodiversity offsetting contributions; and
- B. Subject to A, **GRANT** permission subject to the following conditions:
 - 1. 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 before any development is commenced the further approval of the Local Planning Authority is required in respect of the following reserved matters:
 - (a) appearance;
 - (b) landscaping;
 - (c) layout; and
 - (d) scale.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and so to

conform with Section 92(2) 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 remaining reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission; and
(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref. 150630-STL-XX-XX-DR-A-XXXX-S8001 Revision P01) and the design principles of paragraphs 3.4 to 3.6 of the Planning Design & Access Statement (ref. 150630 Revision A, dated July 2017). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:
 - (a) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows;
 - (b) a geophysical archaeological survey of the site along with an initial evaluation report to establish the significance, if any, of archaeological interest on the site, along with the results of trial intrusive investigation should initial evaluation report survey indicate the need for such works;
 - (c) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 15 & 16 of this permission, and to demonstrate that the outfall from the site is no greater than greenfield rates unless otherwise demonstrated through evidence that a higher rate of discharge is acceptable;
 - (d) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/replacement of that guidance) and Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);
 - (e) the details of landscaping shall include suitable provision for the retention of lizard habitat on the site;
 - (f) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than twenty-five years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery; and

(g) details of secure cycle parking facilities for the employees of, and visitors to, the employment premises.

Reason: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under the Council's Design Guide SPD and Secured by Design, and in the interests of highway safety, sustainable drainage and reducing flood risk, biodiversity and the cultural heritage of the District.

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

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

5. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0800 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

Reason: In order to protect the amenities of adjoining residential occupiers.

6. There shall be no burning of materials on site during the construction phase of the development. For the avoidance of doubt this includes any preparatory works to clear vegetation on site.

Reason: In order to protect the amenities of adjoining residential occupiers.

7. No generators shall be used on the site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, only those approved generators shall be used.

Reason: In order to protect the amenities of adjoining residential occupiers.

8. No development, including preparatory works, shall commence until a mitigation strategy and working method statement in for common lizard has been submitted to and approved in writing by the Local Planning Authority. The submitted mitigation strategy and working method statement shall provide for the management of any refuge areas both during and after construction. The development shall be carried out in accordance with the approved mitigation strategy and working method statement.

Reason: In order to safeguard protected species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

9. No development, including preparatory works, shall commence until a scheme for the protection of trees, hedgerows and ponds has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) and ensure that no vehicles can access, and no

storage of materials or equipment can take place within, the root and canopy protection areas of trees/hedgerows. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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 to protected and non-protected interests.

10. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological monitoring (WSI) has been submitted to and approved in writing by the Local Planning Authority, and until any pre-commencement element of the approved WSI 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 and provision to be made for post investigation analysis and reporting;
 - iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

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

11. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

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

12. No development shall take place until a Construction Management Plan (CMP) or Construction Method Statement (CMS) has been submitted to and been approved in writing by the Local Planning Authority. The CMP/CMS shall provide details of space for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site

operatives' and visitors' vehicles, routes for construction traffic, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions. The CMP/CMS shall be adhered to throughout the construction period.

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

13. No development or other operations, including preparatory works, shall commence until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is replaced/completed pursuant to the requirements of condition 16.

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

14. Prior to any other works commencing on site, the new access shall be formed to Park Avenue generally in accordance with plan/drawing ref. 22847_03_020_01 Revision A, constructed to base course and the entire site frontage fronting the traffic island cleared of all obstructions greater than 1m in height (600mm in the case of vegetation) above carriageway channel level for a distance of 2.4m into the site from the carriageway edge.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that construction works without suitable access provision could bring about unacceptable impacts.

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

16. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, 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 unless evidence is provided to demonstrate that a deviation from these standards would not cause increased risk of flooding on or off site, shall be 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. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

17. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from a suitably qualified independent engineer shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 19. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

18. Prior to the construction of a building or the setting out of external storage or yard areas, a scheme for the control and mitigation of noise emanating from the site/building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties.

19. Prior to the first occupation of each employment premises/land hereby permitted, the new estate road between each respective plot and the existing public highway shall be laid out in accordance with the plan(s) approved

under condition 1, constructed to base level, drained and lit in accordance with the County Council's standard specification.

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

20. Where the new estate road is not to be adopted as public highway, a scheme for the ongoing management and maintenance of this route so to ensure it remains open to public use at all times shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of a premises. Thereafter the approved management and maintenance scheme shall be implemented at all times.

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

21. Prior to a premises being occupied, an amended Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall incorporate methods in which to review the Travel Plan to respond to any creation or extension of bus services to Dove Valley Park (all phases) so to promote the use of sustainable transport options. The approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, and shall be operated for no less than 10 years from first occupation of a premises. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of encouraging sustainable modes of transport.

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

Informatives:

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

2. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):

- facing materials and windows/openings reveals details;
- surfacing materials and patterns;
- boundary treatments (including materials thereof); and
- if applicable, details of a management and maintenance strategy for highways not adopted under an agreement pursuant to section 38 of the Highways Act 1980.

You should also ensure that the reserved matters ensure that the open

aspects of the footpath routes and proposed links are not compromised by any landscaping sited between footpath and the development.

3. The application site is affected by a Public Right of Way (Footpath/ Bridleway numbers 28 & 50 (Foston) on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.

- Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.

- If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

- Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

- To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

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

5. 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.

6. For the use or re-use of sewer connections, either direct or indirect to the public sewerage system, the developer/owner will be required to make a

formal application to Severn Trent Water Ltd under Section 106 of the Water Industry Act 1991. Copies of current guidance notes and the application form may be obtained from www.stwater.co.uk or by contacting the New Connections Team on 0800 707 6600.

7. 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.

8. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.

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

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

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

10. The applicant should be aware that the roads shall remain private and the Highway Authority advise that they should be constructed to an industrial standard and a management company appointed to oversee the future maintenance.

11. The applicant should contact Derbyshire County Council's Public Transport section with regards new bus stop(s) being provided on Pakenham Boulevard/Park Avenue.

12. Effective monitoring is an essential requirement of a successful Travel Plan. The Highway Authority recommends the use of the STARSFor Travel plan toolkit: www.starsfor.org, although other monitoring methods are available. Use of this system ensures a consistency of quality and puts in place a straightforward system for subsequent updating and monitoring. Fees are levied for the use of this system. Contact: sustainable.travel@derbyshire.gov.uk for more details.

13. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

01/05/2018

Item **1.4**

Ref. No. **9/2017/1402/NO**

Applicant:
Mr D Willshee
C/O Agent

Agent:
Mr Brian Mullin
Marrons Planning
1 Meridian South
Meridian Business Park
Leicester
LE19 1WY

Proposal: **THE ERECTION OF 8 NO HOLIDAY CABINS ON LAND AT SK2923**
 5475 SHADES FARM BRETBY DERBY

Ward: **REPTON**

Valid Date **05/02/2018**

Reason for committee determination

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

Site Description

The application site is broadly rectangular in shape and comprises approximately 5.2 Ha of land, part of a single field and maintained as pasture on the south side of Knights Lane. The site is bounded on three sides by hedgerow with the south west side open – a continuation of the field. On the northwest side runs Knights Lane. The site is in open countryside away from any settlement and there are no buildings in close proximity. Bretby village is on the opposite side of the ridge approximately 400m to the south from the edge of the application site. A similar distance from the application site in a south easterly direction along Knights Lane is Planters Nursery and Garden Centre. To the north is a group of buildings identified as Newton Lane Farm the closest of which is approximately 175m away.

The site itself is gently sloping downwards from south to north and continues to drop away outside of the application site. To the south and west of the site is the Bretby Conservation Area which includes a number of heritage assets but is not directly adjacent to the site. Some of the Conservation Area is visible from the site but no buildings. Public footpath No 13 runs in a north westerly direction from the village across The Mount to join Knights Lane at the south west of the site.

9/2017/1402 - Shades Farm, Bretby DE15 0RD



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South Derbyshire District Council, LA 100019461, 2014

Proposal

The application seeks to locate eight holiday cabins in the north eastern corner of the application site. Two types of cabin are proposed. The two bed cabins would be approximately 10.4m x 6.1m and with a height to eaves of 2.8m and height to Ridge of 3.6m. The three bed cabins would be 12.3m x 6.1m again with a height to eaves of 2.8m and height to ridge of 3.7m. The units will be timber clad with vertical larch cladding. These cabins would be single storey with low pitched roof and would comprise living area, kitchen, bathroom and bedrooms with associated storage. The units are designed to be used as family accommodation. Landscaping would feature between cabins and will also ensure adequate screening from further afield. Finally the access to the site would be from the existing field gate off Knights Lane in the south western corner of the site. This is arranged to provide access to the site and individual cabins with the least impact on the landscape.

Applicant's supporting information

A Planning Statement describes the detail of the application and sets out the technical and policy considerations setting out how the proposal meets the policies of the NPPF and South Derbyshire's adopted Local Plan. In addition the statement provides an overview of the holiday let industry setting out why the domestic holiday lodge sector is 'extremely buoyant' at present. Technical appendices relating to Site Access Appraisal, Heritage, Landscape and Ecology are attached and are summarised below. The Statement concludes by stating that there are no conflicts with the NPPF and the adopted Local Plan.

The Site Access Appraisal states that, following a speed survey, the proposed development would provide safe and suitable access in accordance with the principles set out in the 6Cs Design Guide with negligible levels of vehicular movement and would benefit from acceptable levels of vehicular visibility splays. The report states that no hedgerow removal would be required to achieve the required visibility splays, subject to appropriate maintenance of roadside vegetation.

The Heritage Assessment sets out the heritage assets close to the application site and the potential effects on their significance as a result of the proposed scheme. The assessment concludes that the site is not within the setting of the conservation area or registered park or all but one of the listed buildings. The site is within the setting of the listed Church (St Wystan's), Grade II listed, but the assessment identifies that the proposal could be developed without necessarily resulting in any harm to the significance of these heritage assets dependant on the detailing of the scheme. A series of recommendations have been provided to which will assist in ensuring that the development would result in a neutral effect on the significance/special interest and setting of these assets.

A Landscape Baseline Report considers the landscape and visual setting of the site taking into consideration the local landscape policy setting; the findings of the landscape character assessments and a review of the local setting of the site. The report confirms that the site is located within the Melbourne parklands landscape character area and more specifically the Estate Farmlands landscape character type. The report notes that the site is not covered in any vegetation and highlights a

landscape strategy to minimise the impact of the proposal. This strategy, which aims to re-establish the historic field boundaries with hedgerows, provides a 'dramatically improved' landscape structure to the site.

An Ecology Appraisal of the site was undertaken to survey the site to identify and describe the habitats present on the site; identify the potential presence of protected species; determine the need for future surveys; assess the ecological impact of the proposed works; and identify any ecological constraints or opportunities. The appraisal concludes that there were no designated sites within or adjacent to the boundary of the site. There are however two designated sites within 1km of the site. Agricultural land was the dominant habitat within the landscape. It was, however, segmented by hedgerows. Overall the proposed development was considered likely to impact on habitats of low ecological value. Recommendations are made to avoid impacting protected species during the works. The development also offers the opportunity to provide ecological enhancements on the site set out in the recommendations section of the report.

Planning History

None.

Responses to Consultations

The Highway Authority states that the application is accompanied by a Planning Statement which includes a Site Access Appraisal. The Site Access Appraisal contains details of a speed survey carried out in the vicinity of the application site access and indicated 2.4m x 160m visibility sightlines in each direction on Drawing HAS/17/019-01 rev B. However, whilst the sightline in the north easterly direction was shown to a point 160m from the access, due to the horizontal alignment of the road, it also needed to be shown at a tangent to the outside of the bend in Knights Lane. This issue was addressed in Drawing HAS/17/019-01 rev C which was received by e-mail on 3 April 2018. The LPA should be aware that the provision of the required sightlines at the site access would impact on the fronting hedgerow. Based on the amended drawing, there are no objections to the proposal from the highway point of view subject to conditions being included in any consent in the interests of highway safety relating to visibility, position of gates, space for parking and manoeuvring of vehicles prior to occupation.

The Environmental Health Officer states that the site is over 200m away from the nearest noise sensitive receptors and as a result there is unlikely to be any significant impact on amenity. EH does however suggest conditions relating to lighting, drainage of both foul and surface water, a scheme for noise control. In addition, the nature of the cabins needs to be established as to whether they are 'buildings' or 'caravans'. Given the likely nature of construction it seems likely that they would be regarded and regulated as 'caravans'. As such a caravan licence would be required. Subject to these conditions EH has no objection in principle to the proposal.

The Council's Conservation Officer comments that the site lies within the setting of Bretby Conservation Area and makes a minor contribution to the wider rural setting

that informs the character and development of the village. Two footpaths run along the north-west of the Conservation Area (CA) in an area known as The Mount. This open space is included within the CA boundary for its archaeological potential and interest which is visible within the area. The Conservation Area Character Statement map highlights The Mount as being important open space and at the bottom of the field, adjacent to the church, providing a key view point that looks up to the rising land form. Due to the rising topography of the land, boundary treatments and degree of separation the proposal is not considered to impact on the significance of the setting of the listed church or other listed assets within the CA. The greater impact derives from that on the CA itself, with the boundary running adjacent to the field edge. However, views from the footpaths of the site are restricted by boundary treatments, land forms and topography. The proposal would not impact on the appreciation of the features within The Mount, the open space or key views as identified within the Character Statement and would be appreciated as part of the wider rural setting. Due to the scale and location of the proposal as well as mitigation measures such as additional planting, the proposal is not considered to adversely impact on the character and appearance of the CA and is in line with Local Plan Policies BNE2 and BNE10.

Derbyshire County Council's Archaeologist notes that the proposal is in an area of regular fields thought to be of post-1650 date (Derbyshire HLA data). Aerial photographs of the site show ridge and furrow on an alignment which respects some of the boundaries shown on current mapping, and others on historic mapping but since lost. This suggests that the initial enclosure of these fields probably reflects subdivision of the medieval strip fields and may therefore pre-date the 'post-1650' shown on HLA, although the original system has been much rebuilt with straightening of some boundaries, removal of some and addition of others. The hedgerow along the site frontage borders Knights Lane to the south, while the boundary north of Knights Lane is the parish boundary between Newton Solney and Bretby, and is therefore likely to be of some antiquity. Knights Lane is shown on the Ordnance Survey 1" First Edition (1836-39), which pre-dates the 1845 cut-off date for 'Inclosure', and thus it can be reasonably surmised that the southern boundary of the road also pre-dates 'Inclosure'. It should be noted however that roads such as Knights Lane have often been subject to episodes of widening to accommodate vehicular traffic during the latter part of the 20th century. Looking at Knight's Lane in the vicinity of the proposal site the evidence seems to suggest that widening has taken place on the northern side, rather than the southern. Taken together, therefore, the balance of probability seems to suggest that the southern boundary of Knights Lane is likely to be an 'important' hedgerow in terms of criterion 5 of the Regulations. It is part of a field system that seems likely to pre-date 'Inclosure' (i.e. 1845), though few early elements of the system now survive. It seems unlikely on the evidence seen that significant widening/alteration has taken place south of Knights Lane, but some piecemeal rebuilding of the southern roadside boundary cannot be ruled out.

Derbyshire Wildlife Trust (DWT) notes that the application is supported by an Ecology Appraisal prepared by Ecolocation and dated 9th August 2017 which presents results of a survey completed on 25th July 2017. The Ecological Appraisal identified the site to comprise a field of species-poor semi-improved grassland of low ecological value with which DWT concurs. Overall, from the submitted ecological

information DWT advise that the proposal is unlikely to impact upon any substantive nature conservation interest. They also state that it is unclear from the submitted information whether the access provision would require any removal of the existing roadside hedgerow along the northern boundary to achieve the required visibility splays. It is important that if any hedgerow removal is required, it is timed to avoid the bird breeding season which extends for March to August inclusive, and that replacement hedgerow is provided within the scheme to ensure there is no net loss of hedgerow priority habitat. This should be secured by a condition attached to any permission. DWT fully supports the recommended biodiversity enhancement measures outlined in section 5 of the Ecological Appraisal. They particularly welcome the proposed creation of a wildlife pond as shown on the proposed site plan.

The Council's Economic Development Manager states that the aims of the above development align with those of the South Derbyshire Economic Development Strategy and The National Forest Tourism Growth Plan. Both documents recognise tourism as an expanding sector of the local economy with potential for further growth. Also, as a means of job creation in rural areas, that would also support local services, such as village shops and pubs. Maximising the potential of The National Forest is highlighted in the Economic Development Strategy as one of the key issues for South Derbyshire. Whilst the site is just outside the Forest boundary, this would make no difference from a tourism destination perspective. The latest research reveals that nearly 8.2 million visitors came to the National Forest in 2016, and that tourism spend has now reached £395.2m, sustaining 4,849 FTE jobs - a further increase on the growth stated in para 5.30 of the Planning Statement. The development proposes Non-Serviced Accommodation - in The National Forest this sector has grown dramatically: from 17,000 visitors in 2003 to 50,000 in 2016; from 94,000 tourist days in 2003 to 331,000 in 2016; from 80 people directly employed in 2003 to 208 in 2016. Over the period 2003-16 the number of Non Serviced Accommodation bed spaces has risen by 1,605, of which 431 were in self-catered units. The popularity of Non-Serviced Accommodation has also grown relative to other forms of accommodation (e.g. hotels). Further the growth is increasingly year-round, with the highest levels of growth taking place during off-peak periods. The above data indicates a growing demand for the type of Non-Serviced Accommodation proposed.

Responses to Publicity

One objection letter has been received raising the following concerns/points:

- a) The cabins would be on the north side of Bretby Mount, a visual natural landmark which should not be developed.
- b) The road from the proposed cabins will bring traffic into a narrow part of Knights Lane.
- c) There are no footpaths on the lane and the level of traffic on this road is already high as it is a link to the A38.
- d) Holiday cabins are ideal for family use but this site alongside a busy road without a footpath is an accident waiting to happen.
- e) This is the wrong place for holiday cabins.

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), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF10 (Tourism Development),
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage),

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD
- Bretby Conservation Area Character Statement 2011

Planning Considerations

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

- Principle of development
- Design and landscape character
- Heritage constraints
- Ecology
- Highway safety and parking provision.

Planning Assessment

Principle of development

Whilst the site lies outside of any existing settlement confine, Bretby not being large enough to warrant its own settlement confine, the usual strategic approach to new residential development is relaxed for tourism development. There are no landscape or heritage designations associated with the site. The principal policies are E7 and INF10 of the Local Plan Part 1. E7 sets out that *"development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of the rural communities in the District"*. The development of new buildings also need a sound business case; capacity on the local highway network to accommodate the traffic generated; that the development

would not give rise to any undue impacts on neighbouring land; that it is well designed and of a scale commensurate with the proposed use; and visual intrusion and the impact on the character of the locality is minimised. The supplementary text of the policy points towards policy INF10 when considering tourism development.

Policy INF10 supports tourism development in principle across the District, without limitation on whether it is within a settlement confine or not. This includes overnight accommodation *"...in other appropriate locations where identified needs are not met by existing facilities"*. It is expected that new tourism development to be:

- i) *"provided through the conversion or re-use of existing buildings or;*
- ii) *accommodation of a reversible and temporary nature, or*
- iii) *sustainable and well-designed new buildings, where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan" [and]*

"New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused".

Whilst not in the boundary of the National Forest, The Council's Economic Development Manager points out that the site is only just outside the National Forest boundary and the location of the holiday cabins, whether inside or outside the Forest boundary, would make no difference from a tourism perspective. The National Forest Growth Plan continues to recognise the need to expand tourist accommodation provision, particularly in regard to the self-catering sector, in (and close to) the National Forest.

The applicant's Planning Statement refers to projections provided by a national tour operator which have been provided separately to the Council in confidence. The Council's Economic Development Manager confirms that these projections appear reasonable given his local knowledge of the market. The agent has stated that the applicant intends to use this operator as a means of promoting and establishing the business. They are seeking to provide for the shorter break of 3-4 days and to extend the opportunities for short breaks throughout the year, which is an area of high growth, particularly with operators seeing the benefits of higher standard accommodation. The proposal is considered to provide an excellent business case for the provision of holiday cabins within the immediate area. It goes on to state that the proposal will provide invaluable employment opportunities, anticipated to create five jobs for local residents in the area and facilitate additional demand for local services including shops, pubs and tourism attractions in the area. The NPPF states at paragraph 19 that: *'planning should encourage and not act as an impediment to sustainable growth'*. Paragraph 28 of the National Planning Policy Framework seeks to support economic growth in rural areas in order to create jobs and prosperity.

In the light of the comments from the Council's Economic Development Manager, it is considered that the proposed business case is justified with demand evident through the Local Plan and supporting studies such as the National Forest Growth Plan and the operation of the business model having been thought through and supported by an established holiday accommodation provider. The proposal therefore complies with criterion (i) of policy E7 as well as criterion A (ii) of INF10 in terms of principle.

Design and landscape character

The proposed layout and design of the cabins is such that space is afforded between each unit. This also provides each cabin with some outside space and allows for the landscaping scheme which would provide the screening required in terms of amenity for the residents of the cabins as well as to safeguard the view from the conservation area. The cabins themselves, following clarification from the Agent, are to be transported on to site 'whole' being prefabricated off site. Given their dimensions, they are therefore within the definition of a caravan as set out in the 1960 Act. In light of this information the proposal requires a caravan site licence issued by Environmental Health. Notwithstanding the fact that these structures would be classified as caravans, there are two types of cabin proposed, a two bedroomed cabin and a three bedroomed cabin. The two bed cabin type measures approximately 10.4 metres by 6.1 metres by 2.8 metres to eaves and 3.6 metres to ridge. The three bedroomed cabin type is approximately 12.3 metres by 6.1 metres by 2.8 metres to eaves and 3.7 metres to ridge. They are therefore low rise structures that would be timber clad in larch. The design also provides a modest external decking area and guard rail incorporated into the base but is not part of the cabin itself. The cabins, although just outside the National Forest area, reflect the built structures supported by BNE1 and are considered to be suitable across the District for this type of accommodation.

In terms of landscape character, at a national level the site is located within the Melbourne Parklands national character area (NCA 70). The Melbourne Parklands specifically the estate farmlands landscape character type. The Baseline report states that, as the site is small in comparison to the NCA it is important to look at the County Council's Landscape Character of Derbyshire (Fourth Edition 2014) which identifies a number of Landscape Character Types. (LCTs). Key characteristic for this LCT are gently rolling plateau dissected by minor river valleys, mixed farming with intensive arable cropping and improved permanent pasture, estate woodlands with broadleaf and coniferous species, scattered hedgerow trees, predominantly medium size semi-regular and regular fields enclosed by hedgerows, settlements constructed of red brick with clay tiled roofs, scattered red brick estate farmsteads and the occasional country house and open views from elevated areas over surrounding lower lying landscapes.

The consultant reports that, although aspects of the report are in line with the industry standard text, there are proposals made which require a leap from the basic judgements of value and sensitivity, to mitigation measures which reference potential adverse effects. However, these potential effects are only briefly mentioned in the report. The assessment describes the landscape setting, and references existing studies as well as on site observations. The assessment sets out a design strategy including:

- re-instating the historic boundary hedgerows from the 19th century;
- new tree planting along reinstated hedgerows;
- the creation of a wooded copse at the south west corner of the site replicating the planted hilltop at Bretby mount;
- The creation of a field pond at the northern corner of the Site; and

- The positioning of the cabins to the lower slopes of the Site to avoid breaking the skyline.

The landscape advisor goes on to state that the design and layout detailed in the masterplan has been correctly and accurately described, as have the majority of baseline conditions. A reference not included in the report is that of the Areas of Multiple Environmental Sensitivity (AMES) within the Landscape Character of Derbyshire (2014). The site falls within an area of Secondary Sensitivity, one that demonstrates above average (sensitivity to change) with respect to two of the three datasets, these being: historic environment and visual unity. These areas of secondary sensitivity are sensitive to change but may also be capable of being enhanced by development or new green infrastructure.

The assessment summarises the landscape value and visual effects of the site as being 'relatively limited' set against the wider area which is considered of 'moderate value and landscape sensitivity'. It is noted that later on in the assessment the site and its associated features are considered to be of 'moderate value and landscape sensitivity'. It is unclear where this conclusion comes from as there is no earlier consideration of the susceptibility of the landscape or its features. The assessment has not clearly followed the standard process by reviewing the value of the landscape in combination with its susceptibility to determine its sensitivity to any proposed change. In addition the assessment does not consider the magnitude of any potential effects of the proposed development. This would normally inform the design process when drawing up the landscape masterplan. However, having undertaken a site visit and reviewed all documentation, whilst the rationale for the masterplan is unclear, the Landscape advisor concludes that there are likely to be minor adverse effects at worst as a result of the development proposals. For most aspects of landscape character, and for most visual receptors, the overall effects would be negligible after the proposed planting has had time to mature. It is therefore reasonable to agree with the assertion from the assessment that *'the proposed strategy secures a considered landscape framework, compatible with local landscape character and capable of assimilating the holiday lodge development with this part of the Melbourne Parkland Estate Farmlands..'*

Given the Landscape Advisor concludes that there are no landscape or visual grounds for refusal, sufficient to comply with BNE4 and the design of the cabins, in terms of layout, location and use of materials are all considered to comply with BNE1, it is considered that the proposed design and landscaping complies with the relevant policies.

Heritage constraints

A Heritage Assessment was submitted with the application albeit the application site is not in the conservation area and does not include any heritage assets itself. Both the Assessment and the Conservation Officer highlight the fact that the site is close to a number of heritage assets including listed buildings, Bretby Conservation Area, Bretby Castle, a scheduled ancient monument and a registered park and garden. The site is not, however, visible from any of the listed buildings, Bretby Castle, the Scheduled Ancient Monument, or Bretby Hall and the Registered Park and Garden. Whilst the site is visible from within the northern part of the conservation area, along

the public right of way (PROW FP13) views of the site are restricted by existing boundary treatments and the rising topography of the land.

Derbyshire County Council's Archaeologist comments on the age and status of the boundary hedge to the north of the site. Aerial photographs of the site show ridge and furrow on an alignment which respects some of the boundaries shown on current mapping, and others on historic mapping but since lost. This suggests that the initial enclosure of these fields probably reflects subdivision of the medieval strip fields and may therefore pre-date the 'post-1650' shown on HLA, although the original system has been much rebuilt with straightening of some boundaries, removal of some and addition of others. The hedgerow to the north of Knights Lane is the parish boundary between Newton Solney and Bretby and Knights Lane appears on historic mapping pre-1845. This would suggest that the boundary hedge is also pre 1845 which would make the hedgerow 'important'. However, whilst widening of the road has taken place at some point during the 20th century, evidence suggests this was on the northern side of Knights Lane. The northern hedgerow of the application site is therefore an 'important' hedgerow in terms of criterion 5 of the Regulations. The applicants Site Access Appraisal report states that no hedgerow is required to be removed. Further comment is made below.

Notwithstanding the County Archaeologist's comments, Given the Conservation Officer's comments and the recommendations to minimise the impact the proposal would have on the heritage assets through the careful use of materials, the informal siting of the cabins, and the proposed high quality landscaping plan, the proposal is considered to have less than substantial harm to the significance of the conservation area and are considered to be outweighed by the public benefits of the proposal in line with paragraph 134 of the NPPF and are in line with policies BNE2 and BNE10.

Ecology

The ecological appraisal provided identified the site as comprising a field of species poor semi-improved grassland of low ecological value. Derbyshire Wildlife Trust concurs with this assessment. DWT note that one mature Ash tree with potential to support roosting bats was identified in the northern boundary hedge but appears not to be affected by the proposal. Overall, from the submitted ecological information DWT advise that the proposal is unlikely to impact upon any substantive nature conservation interest. In addition, they also fully support the inclusion of biodiversity enhancement measures outlined in the Ecology Appraisal. In particular they welcome the proposed creation of a wildlife pond as shown on the proposed site plan and referred to in the report. DWT refer to the boundary hedgerow adjacent to Knights Lane stating that it is not clear whether any hedgerow removal is required. Given the dispute between the Site Access Appraisal and the Highway Authority discussed elsewhere in this report, it is noted that DWT advise that hedgerow removal should be carried outside the bird breeding season of March to August. Given the low ecological value to the site and the highlighted issues set out above which can be covered by condition, the proposal meets policy BNE3 of the local plan and NPPF paragraph 109.

Highway safety and parking provision

Knights Lane is of variable width typically between 4.8m and 5.5m and around 6.0m adjacent to the existing field gate, the location of the proposed access. The lane is subject to a 60 mph national speed limit. The speed survey undertaken to as part of the Site Access Appraisal identified average speeds of 48.9 mph for northeast bound traffic and 48.1 mph for southwest bound traffic and there are no pre-existing road safety conditions. The Appraisal demonstrates that a site access could be laid out and provide suitable visibility splays for all users. The Highway Authority initially raised concerns that the proposed access layout plan did not show horizontal alignment to the outside bend in Knight's Lane. A revised plan was provided which satisfies the Highway Authority. However the Highway response does state that the provision of the required sightlines at the site access would impact on the fronting hedgerow. It is estimated that approximately 30 metres of the hedgerow from the site access to the northeast may need to be removed. A condition to replace this element of the hedgerow set back from the highway can be added to address this. However, the County's Archaeologist has highlighted that this hedgerow is likely to be important. Given the hedgerows importance and the apparent conflict between the Site Access Appraisal and the Highway Authority's comments, a condition requiring the detailed assessment of the amount of hedgerow that needs to be removed should be undertaken prior to commencement of the development to keep removal to a minimum.

Parking for the cabins is provided at one space per cabin and no objection was raised by the Highway Authority given that this is lower than normal residential parking requirements. The larger of the two cabin types has three bedrooms and can therefore sleep up to six people it would seem appropriate to provide more than one space per cabin. As each cabin is provided with ample space, the provision of a second parking space can easily be provided. A condition can be added to this affect.

Conclusion

The proposal is located outside the conservation area and away from the main designated heritage assets. Whilst the site is in open countryside the proposal is such that the use is considered appropriate in this location and is considered to have negligible impact on the landscape character of the area. The proposal includes the reinstatement of old field boundaries and specific screening for the proposed development and biodiversity enhancement through the creation of a 'wetland' area in the north east corner of the site. The proposal is therefore considered to meet all the relevant policies in Part 1 and Part 2 of the Local Plan.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings P03, P04 and P05 and PL40E received as valid on 27 December 2017; plan/drawing HAS/17/019-01 received on 3 April 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the cabins shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:

i. the building shall not be occupied as a person's sole, or main place of residence;

ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and

iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

The contact details for the site operator shall be supplied in writing to the Local Planning Authority prior to the first occupation of a cabin on the site, any subsequent change in operator (including their contact details) shall be notified to the Local Planning Authority no later than 5 days following that change.

Reason: The creation of unrestricted dwellings in this location would be contrary to the development plan and the objectives of sustainable development.

4. No removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority.

Reason: In the interests of safeguarding and enhancing the biodiversity offer of the site.

5. Prior to any other works commencing, the site access shall be modified in accordance with application drawing HAS/17/019-01 rev C. The access shall have a minimum width of 6m, be provided with 6m radii and visibility sightlines of 2.4m x 160m in each direction. The area forward of the sightlines shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

6. No development shall commence until details of the finished floor levels of the holiday cabins and associated surfaces and decking hereby approved, and of the ground levels of the access road and wider site relative to adjoining land levels, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the agreed levels.

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

7. No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use. If there is a requirement for a pumping station, full details of this and an assessment of the noise which may be generated by its operation, shall be included with the details submitted.

Reason: In the interests of pollution control, noting that uncontrolled discharges could cause unacceptable impacts if the scheme is not designed correctly from the outset, and to ensure associated features do not generate other unacceptable impacts.

8. No development shall take place until a detailed design, timetable for implementation and associated management and maintenance plan of surface water drainage for 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. The scheme shall be carried out in conformity with the approved details prior to the first occupation of each respective cabin/hard surface served by the surface water drainage system.

Reason: To ensure that it is possible to incorporate sustainable drainage systems before the development begins in the interests of flood protection.

9. No construction of the cabins shall commence until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

10. Notwithstanding the approved plans, before any works take place to implement the permission a survey of the boundary hedgerow adjacent to Knights Lane and the proposed access to the development shall be undertaken to conclusively establish whether any of the hedgerow is required to be removed in order to achieve the visibility splays required under condition 5 above. If a section of the hedgerow is required to be removed a replacement hedgerow shall be provided immediately behind the required sightlines which are to be regularly maintained. The variety and mix of species of the new hedgerow shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide certainty that, should part of the hedgerow need to be removed, only the minimum required is lost and to provide a replacement hedgerow in this instance.

11. Prior to the first occupation of a cabin hereby approved, the landscaping framework set out in the Landscape Baseline Report prepared by Golby and Luck Landscape Architects dated September 2017 shall be implemented in full.

Reason: In the interests of the appearance of the area, recognising the need to achieve a suitable level of visual screening to the site by way of native and woodland planting.

12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the cabins or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. Thereafter, the landscaping shall be maintained in accordance with the Landscape Management Plan ref. P17-1573 (dated October 2017) with any changes to that Plan as part of the annual or 5-yearly review first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and the health of protected trees over the lifetime of the development.

13. The development shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Appraisal prepared by Ecolocation dated 25th July 2017. Such measures shall be implemented and retained as such thereafter.

Reason: In the interests of improving the biodiversity of the area.

14. Prior to the first occupation of a holiday cabin hereby approved, details of the body or organisation responsible for implementation of the Landscaping, as required under condition 13, along with details of the legal and funding mechanism(s) by which the long-term implementation of the LMP will be secured by the developer/site owner, shall be submitted to and approved in

writing by the Local Planning Authority. Any subsequent change to that body or organisation shall be notified to and approved in writing by the Local Planning Authority in line with the requirements of this condition.

Reason: In the interests of safeguarding and enhancing the long term visual and biodiversity offer of the site.

15. Prior to the first use of a cabin hereby approved, a noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme, as a minimum, shall include measures to ensure:

- i) a quiet site policy to be enforced between 10pm and 8am;
- ii) hot tubs, should they be introduced, be switched off and vacated by 11pm;
- ii) that all hot tubs are enclosed according to a design to be provided with the details submitted;
- iii) acoustic screening to all outdoor seating areas sufficient to break line of site with neighbouring residential property, of a design to be provided with the details submitted; and
- iv) no external music is permitted or facilitated.

The physical measures included as part of the noise mitigation scheme shall be installed in full prior to the first use of each respective cabin and thereafter retained/maintained as such, with all other measures in the noise mitigation scheme carried out in accordance with the approved scheme throughout the lifetime of the development.

Reason: To avoid undue disturbance to adjoining property in the interests of safeguarding their present standard of amenity.

16. No external lighting shall be installed until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.

Reason: To preserve amenity impacts on adjoining occupiers and in the interests of wildlife and the visual amenity of the area.

17. Notwithstanding the submitted drawings, prior to the premises first being taken into use, space shall be provided within the site curtilage for the parking and manoeuvring of two vehicles per holiday cabin, laid out and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interests of highway safety.

18. Any gates shall be set back at least 10m into the site from the highway boundary and open inwards only.

Reason: In the interests of highway safety.

Informatives:

1. If external lighting is proposed, you are advised that it should be by way of low level bollards and bulkhead lighting only.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
3. 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.
4. 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.
5. 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.
6. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
 - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by

pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

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

7. Notwithstanding the submitted details, a Caravan Site Licence will be required. You will need to contact the Council's Environmental Health Department for further details.

01/05/2018

Item **2.1**

Ref. No. **9/2017/1399/FM**

Applicant:
Mr & Mrs Tamblyn
6 Millfield Street
Woodville
Swadlincote
DE11 7DB

Agent:
Mr Sandy Sanders
D.J.S. Architectural Services Ltd
2 Grange Drive
Long Eaton
NG10 2DQ

Proposal: **THE ERECTION OF A SINGLE DWELLING AND DETACHED GARAGE TO THE REAR OF 6 MILLFIELD STREET WOODVILLE SWADLINCOTE**

Ward: **WOODVILLE**

Valid Date **10/01/2018**

Reason for committee determination

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

Site Description

The application site is located on Millfield Street, which is accessed from Ashby Road close to the eastern boundary of the District. Millfield Street is a cul-de-sac serving mainly road frontage development.

The application site currently forms part of the rear garden of No 6 Millfield Street which is a detached bungalow together with Nos 4 and 8. The site is surrounded by residential development both existing and under construction.

Proposal

The application proposes the erection of a detached dwelling, with accommodation over three storeys and a detached single garage. Vehicular access is proposed to the north of the existing dwelling from Millfield Street.

The proposed dwelling has a relatively simple form with a gable providing the front elevation to Millfield Street, a large partly glazed gable is proposed fronting the proposed garden. The detached single garage is proposed adjacent to the sites boundary with No8 Millfield Street.

9/2017/1399 - 6 MILLFIELD STREET, WOODVILLE DE11 7DB



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South Derbyshire District Council. LA 100019461. 2014

Applicant's supporting information

The Design and Access Statement sets the scene for the development describing the surroundings, the proposal, and the sustainable nature of the site being close to services etc. The design being an L shape is considered to maximise garden access and views whilst and avoiding overlooking. The siting is considered to following the building plots of the adjacent development (currently under construction), with the scale and massing being comparable. The proposal is not considered to have a significant impact on the street scene but follow the grain and design principles of the new adjacent development.

The Coal Mining Risk Assessment acknowledges the potential risk that the development poses from historic coal mining activity. As such intrusive site investigations are considered necessary in order to inform any necessary specialist foundation design and/or any other mitigation.

Planning History

9/2015/0976 The erection of residential development for ten dwellings including access, internal road and garages. Approved 18/06/16.

Responses to Consultations

The Coal Authority note that the site is in an area at risk of potential historic coal mining activity. As such a scheme of intrusive investigations should be undertaken as recommended by the Coal Mining Risk Assessment, subject to this the Coal Authority has no objection.

The Senior Environmental Health Officer notes that the site is within influencing distance of an area of unknown filled ground; linked to the historical infilling of a former quarry site. It is therefore considered that the development may be at risk from ground gas migration and ingress, and as such a condition requiring the provision of gas protection measures is considered necessary.

The Highway Authority has no objection to the revised access arrangements subject to conditions relating to the provision of access and parking.

Woodville Parish Council has no objection.

Responses to Publicity

No responses have been received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy); S6

(Sustainable Access); SD1 (Amenity and Environmental Quality); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues); BNE1 (Design Excellence); INF8 (The National Forest); INF2 (Sustainable Transport); INF1 (Infrastructure and Developer Contributions);

- 2017 Local Plan Part 2: BNE5 (Development in the Countryside); SDT1 (Settlement Boundaries and Development)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- The principle of development;
- Design related matters;
- Impact on amenity;
- Highway safety; and
- Other matters.

Planning Assessment

The principle of development

The site is located to the east of and outside the Woodville settlement boundary as defined within the Local Plan Part 2. Outside of the defined settlements new residential development is generally not supported. However, policies H1 and BNE5 provide an allowance for new residential development of limited 'infill'. The effect of these policies is to allow for the infilling of small plots within existing groups of housing for not normally more than two dwellings. The site is surrounded on all sides by existing dwellings, including those currently under construction to the east (noted within the planning history above) such that it is considered that the development of this rear garden complies with the policy requirements in terms of reasonably being considered to represent the infilling of a small plot of land within an existing group of housing. As such the proposal is considered to comply with the requirements of policies H1 and BNE5 and the principle of developing the site for a single dwelling as proposed is considered to be acceptable.

Design related matters

In assessing design related matters including the siting, scale, mass and appearance of the proposed dwelling, regard needs to be had for the requirements of Local Plan

policies BNE1 and BNE5 and the guidance in the NPPF. BNE1 expects all new development to be well designed, visually attractive and appropriate having regard to existing townscape characteristics. The principles underpinning this policy are expanded upon within the South Derbyshire Design SPD. Policy BNE5 whilst supporting the principle of infill does this subject to the development being in keeping with and reflecting the character of the area. The NPPF highlights that good design is a key aspect of sustainable development, and that new development should respond to local character and be visually attractive. The NPPF is explicit that permission should be refused for development of poor design that fails to take the opportunities available for improving that character and quality of an area.

The proposed dwelling is sited behind existing detached bungalows, and whilst in a backland location, a new dwelling is capable of being accommodated on the site and would not be so significantly out of sync with the development pattern of the area that unacceptable harm would occur, such that there is no objection to the siting of a dwelling in this backland location.

The existing character of Millfield Street, is generally Victorian with development tight to the highway and comprises a mix of detached, semi-detached and terraced two storey dwellings. However, the site itself is not seen within this context as directly to the west of the application site lie a row of detached bungalows (Nos 4, 6 and 8 Millfield Street) which gives the site its link to the wider street and provides the immediate context and character for the site. It is noted that a development of 10 dwellings currently under construction is located directly to the east of the application site, these dwellings are mainly detached with a small terrace fronting Ashby Road. This development has its own character and separate context with the dwellings fronting an internal road, so whilst directly to the east of the application site the proposed development derives its context from Millfield Street, i.e. from where the site is most visible and from where it is accessed.

Being a backland site the relationship between the proposed dwelling and the frontage dwellings in scale and design terms is of significant importance. New backland development should be designed to reflect and generally be of a subservient scale to those buildings from which it derives its context acknowledging that a hierarchy of buildings should exist in order for new development to appropriately respond to and site within its context. The proposed dwelling set over three storeys is considered to be of a scale that is inappropriate for the site, the scale and resultant mass of the dwelling is such that it would be clearly visible from and would dominate the existing bungalows to their detriment and to the detriment of the character of this part of Millfield Street. Whilst the height of the proposal has been reduced during consideration of the application, the overall height and scale of the building has not been amended to an extent that would result in the development appropriately responding to its context and representing an appropriate scale and mass of built form for the site. The proposal has failed to appropriately consider its scale in relationship with its context.

Impact on amenity

As the site is surrounded by existing dwellings consideration has been given to the impact of the proposal on the amenity of surrounding dwellings in accordance with

the requirements of policies SD1 and BNE1, and the guidance contained within the South Derbyshire Design SPD. Due to the separation distances between the proposal and adjacent dwellings and the rear elevation of the dwelling proposed with no habitable rooms, no issues of overlooking have arisen. In addition, due to the single storey nature of the detached garage, the orientation and siting of the dwelling and the separation that exists has not resulted in any significant concerns in terms of overbearing. Whilst the development would result in a significant reduction in the amenity space for the existing dwelling, sufficient space is retained that would allow for usual domestic activities to take place in comfort.

Highway safety

The provision of safe and convenient access to and from the development, and the provision of adequate parking are a requirement of policy INF2 and the South Derbyshire Design SPD. Given the site's location on a small cul-de-sac where both vehicle movements and vehicle speed are likely to be low it is considered that safe access to the site can be achieved following revisions to the position and alignment of the proposed vehicular access. Sufficient parking provision is provided within the site for a 4 bedroom dwelling.

Other matters

Issues of coal mining risk and contamination have been adequately addressed as detailed within the consultation responses above. Whilst the site is located within the catchment area for the River Mease Special Area of Conservation (SAC), foul water in this location is exported out of the catchment area. In terms of surface water flows these are likely to be caught by the on-site SUDS scheme and were this to fail, the highway's drainage also discharges outside the catchment so there is a very low risk to the SAC. As such no contribution towards the Developer Contribution Scheme is required in respect of the River Mease (SAC).

Conclusion

Whilst the principle of developing the site for residential purposes is considered to be acceptable, safe vehicular access is achievable, and no significant impacts on the amenity of neighbouring dwellings are apparent the proposed scale and mass would result in a dwelling that would dominate its immediate context to the detriment of the character and appearance of the area.

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

Recommendation

REFUSE permission for the following reason:

1. Millfield Street is characterised in this location by detached bungalows, which give the site its immediate context. The proposed dwelling by virtue of its scale and resultant mass would dominate the street scene in this area to the

detriment of the character and appearance of the area. The proposal has failed to appropriately consider the existing characteristics of the site's surroundings and does not reflect or respond to this character such that the proposed dwelling would result in a building which would dominate the immediate street scene to its detriment. The proposal is therefore considered to be contrary policy BNE1 of the South Derbyshire Local Plan Part 1, policy BNE5 of the South Derbyshire Local Plan Part 2, the South Derbyshire Design Guide SPD and the provisions of the National Planning Policy Framework; significantly and demonstrably outweighing the benefits brought about by the proposal.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2017/0194	Repton	Repton	Allowed	Delegated
9/2017/0845	Church Broughton	Hilton	Dismissed	Delegated



Appeal Decision

Site visit made on 20 March 2018

by **Katie McDonald MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Friday 20th April 2018.

Appeal Ref: APP/F1040/W/17/3191604

Askew Lodge, Milton Road, Repton, Derby DE65 6FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Kirkland (Maplevale Developments Limited) against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/0194, dated 23 February 2017, was refused by notice dated 26 July 2017.
 - The development proposed is the erection of up to 13 no. dwellings and associated works (including the demolition of Askew Lodge).
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 13 no. dwellings and associated works (including the demolition of Askew Lodge) at Askew Lodge, Milton Road, Repton, Derby DE65 6FZ in accordance with the terms of the application, Ref 9/2017/0194, dated 23 February 2017, subject to the following conditions set out in the attached schedule.

Procedural Matters

2. This is an outline application with all matters reserved except for means of access and I have dealt with the appeal on that basis. Drawing No 1402/10 Revision G - Proposed Site Layout presents the proposed point of access and shows indicative locations for the dwellings and access road.
3. Since the planning application was determined, the South Derbyshire Local Plan Part 2 has been adopted (November 2017) (LP2). As such, the policies referred to in the reason for refusal as 'submitted' are now adopted and the saved policies of the Local Plan 1998 has been superseded. I have considered the appeal accordingly.
4. The Parish of Repton Neighbourhood Development Plan 2016 – 2028 Submission Draft (NP) has been presented by the Council and Parish Council. As it is at the concluding stages of being made, I am able to attach considerable weight to its policies.
5. A Unilateral Undertaking (UU) has been received (dated 27 February 2018). The Council has raised no comments to the document and I have had regard to it in my assessment.

Main Issues

6. These are whether the proposal would be in an appropriate location for housing having regard to the Development Plan, and the effect of the proposal upon the protected trees.

Reasons

7. The site comprises of a residential dwelling and substantial gardens, surrounded by well-established trees protected by a tree preservation order (TPO). The proposal is for up to 13 dwellings. The application form indicates that these will be market housing.

Appropriateness of the location

8. The settlement of Repton lies to the west and south of the appeal site, and it is not disputed by either main party that the proposal is outside but adjacent to the settlement boundary. Although the NP is not yet made, nonetheless it is a material consideration and it too confirms the settlement boundary.
9. Policy SDT1 of the LP2 sets out that settlement boundaries define the built limits of a settlement. Development outside of settlement boundaries is considered to be in the countryside and Policy BNE5 is engaged. This seeks to restrict development, unless, among other things, it is allowed for by Policy H1 of the South Derbyshire Local Plan Part 1 (June 2016) (LP1).
10. Policy H1 of the LP1 designates Repton as a Key Service Village, setting out that development would be acceptable on sites adjacent to settlement boundaries as an exceptions or cross subsidy site as long as not greater than 25 dwellings.
11. The Council's statement details that the definition of a 'cross subsidy exceptions site' is set out in the glossary of LP1, which states that '*sites that would not normally secure planning permission, however development of the site is granted for both affordable and some private housing to allow the site to be viable*'. Policy H1 has an 'or' between exceptions and cross subsidy sites. As the definition in the glossary combines the terms, it is ambiguous and confusing.
12. Nonetheless, the specific wording of Policy H1 is that if the proposal is adjacent to the settlement boundary, development would be considered appropriate if it is an exception. The exception being that the development is for not greater than 25 dwellings. Accordingly, as the proposal is for up to 13 dwellings and adjacent to the settlement boundary, the location of development would be acceptable with regard to the development plan.
13. Whilst the Council express that exception sites are widely understood to be linked to the provision of affordable housing to support rural communities and address a particular need, this is not what the policy states.
14. The appellant has presented a previous Inspector's decision¹ on the matter of the interpretation of this policy. From my findings above, I agree with the previous Inspector. It is my duty to interpret development plan policies objectively in accordance with the language used, read as always in its proper context.
15. The Council has presented the Affordable Housing Supplementary Planning Document (SPD) (November 2017), asserting that it provides further clarification

¹ APP/F1040/W/17/3171029

of Policy H1. The SPD does not purport to interpret Policy H1, but simply provides a summary of how the policy can facilitate the delivery of affordable housing within the district.

16. Consequently, the location of the proposal would be appropriate and in compliance with development plan Policies H1, S1 and S4 of LP1 and Policies BNE5 and SDT1 of LP2. These policies seek to promote sustainable growth and development to a scale appropriate to the size and role of the settlement.

Trees

17. During my site visit, I noted that a significant amount of vegetation clearance had taken place, removing most hedgerows, trees and other landscaping not subject to the TPO. The remaining protected trees offer a significant contribution to the character and appearance of the area, and are of a high value within the street scene and wider landscape. Of particular note are the Lime trees that are sited to the east of the site. These are detailed as being high quality category A in the Arboricultural Impact Assessment². They are located outside the boundary of the site, forming part of a 2 row avenue to either side of the driveway leading to Askew House. They are tall, prominent and offer high amenity value in the street and the approach to Askew House. Their crown spread overhangs the site by between 4m and 5m.
18. The potential proximity of the dwellings to the protected trees could have an effect upon the root protection areas and lead to a pressure to fell the trees due to them restricting light to dwellings and private garden areas. Furthermore, Lime tree leaves dropping into gardens, on roofs and cars can be particularly frustrating for residents of nearby dwellings as they have a sticky, sap like surface.
19. Based on the information presented, it is not disputed by either main party that the scale of dwellings proposed could be constructed without there being an adverse effect upon the root protection system of the trees.
20. Whilst the location of windows is not before me, I am satisfied that the reserved matters could be designed to ensure principle windows of dwellings closest to the Lime trees are not located in the east facing elevations. Furthermore, I am also satisfied that the outdoor living conditions could be designed to take account of the trees. Thus the effect of the development is unlikely to lead to a pressure to fell the trees.
21. Moreover, although leaves would be likely to drop on the roofs, cars and in the gardens of the proposed dwellings; to my mind, seasonal leaf picking and regular cleaning alone would not amount to such special circumstances to warrant works or removal of these trees, particularly as they lie outside the site boundary.
22. I accept that the Council is concerned about other infrastructure, such as roads and paving. However, this detail is not yet presented for approval and methods of construction such as anti-compaction surfacing could be proposed as part of the reserved matters. Additionally, matters relating to shading or window interface distances are not before me at this outline stage.

² Prepared by Ben Bennett Tree and Woodland Consultancy, dated April 2017.

23. I have noted the various appeal decisions presented by the Council with regard to trees, yet I find the individual circumstances of the appeal before me are different and I have assessed this proposal upon its own merits.
24. Based on the outline nature of the proposal and information before me, the development would not have an adverse effect upon protected trees and is unlikely to harmfully affect the living conditions of future occupants. Accordingly, I find compliance with BNE4 of the LP1 and Policy BNE7 of the LP2, which seek to ensure the protection and/or retention of trees and hedgerows and that development would not suffer from undue shading either now or in the future.

Other Matters

Unilateral Undertaking

25. The UU sets out provision for a built facilities contribution towards an extension or improvement to Repton Village Hall; a healthcare contribution to increase the capacity of Willington Surgery to accommodate additional patients; an open space contribution towards improvements to Broomfields Playing Fields; an outdoor sports facilities contribution towards improvements to outdoor recreation facilities at Broomfields Playing Fields; a primary education contribution towards the provision of 3 primary places at Repton Primary School; and a secondary education contribution towards the provision of 2 secondary places and 1 post-16 place at John Port School.
26. Based on the evidence before me, these contributions would be necessary to make the development acceptable and may allay a number of third party concerns. As many of the UU's provisions are designed to mitigate the impact of the proposal, these elements therefore do not provide benefits in favour of the proposal. However other matters, most notably the contribution towards an extension or improvement to Repton Village Hall, weigh in favour of the appeal.
27. Having regard to the comments provided by the South Derbyshire Clinical Commissioning Group and Derbyshire County Council, no more than 5 obligations for the projects have been entered into, and thus pooling of contributions has not occurred.
28. Therefore, I am satisfied that the need for a planning obligation would meet the tests set out in paragraph 204 of the National Planning Policy Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

Other considerations

29. Although not raised in the reasons for refusal, the Council raised concerns in their statement with regard to the effect of the proposal upon the character and appearance of the area following the shrub and tree removal. The area is residential in character and the adjacent site has planning permission for housing development. Furthermore, to the rear of the site is Askew House. Thus, in this context, whilst the site may be more prominent in the street following the vegetation removal, I do not consider that the effect of a residential development on this site would be harmful to the character and appearance of the area.
30. The Council have directed me to Policy OS2 of the NP, which requires the visual impact of new development on views from the countryside must be minimised. Views from the countryside into the site would be noticeable from the rear of the site, and partially from the east. However, there is a hedgerow to the rear that

would screen the development. To the east, the extensive tree cover would obscure views. Furthermore, built development on approach to the village is established and the proposal would not have a negative visual impact.

31. Various matters have been raised by local residents. I have no evidence that the development before me would lead to an unacceptable effect upon water mains or flooding. Lack of a bus service would not indicate that the development is poorly located; indeed it is on the edge of the village, opposite the local primary school and is within walking distance of the village centre.
32. The existing house is not protected by any national or local designations and no harm has been raised by the Council in relation to its demolition.
33. No harm has been demonstrated in relation to highway safety, and no objections have been raised by the local highway authority subject to the imposition of conditions. The County Council's Archaeologist also recommended that there would be no requirement for archaeological work on this site.

Conditions

34. The drawing numbers are listed for certainty. A condition for protective fencing is required to protect the retained trees and hedgerows during construction. Conditions relating to construction access, construction management on site, access specifications, wheel cleaning, frontage footway widening and the access gradient are required in the interest of highway and pedestrian safety.
35. Conditions 5, 6, 7 and 8 are required to be pre-commencement conditions as it is fundamental to have the details approved prior to the development commencing on site.
36. As the site is adjacent to former engineering works, a precautionary condition regarding unexpected contamination is required in this instance to protect future occupants. A condition regarding the timing of site clearance is necessary in order to protect nesting birds. The bat enhancement measures shall also be implemented to enhance biodiversity, which includes the provision of 3 bat boxes and low wattage lighting.
37. I have not included conditions relating to boundary treatments, floor levels, parking and manoeuvring spaces, surface water drainage and landscaping. These are matters that would be subject to the reserved matters application and it is unnecessary to impose conditions at this time.
38. I have not removed permitted development rights as no exceptional circumstances have been presented. Indeed, as the proposal is outline only with all matters reserved, the design of the dwellings has not been presented and it would be unreasonable to remove such rights at this stage.

Conclusion

39. For the reasons set out above, the appeal succeeds.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with approved plan 1402/06 Revision B and approved plan 1402/10 revision G in so far as it relates to access.
- 5) All the trees and hedges shown on the plan 1402/10 revision G as "to be retained" and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority in compliance with shall comply with BS 5837:2012. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, the ground levels within those areas shall not be altered, no materials or waste shall be burnt within 20 metres of any retained tree or hedgerow, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 6) Prior to commencement of the development hereby approved, details of a temporary access for construction purposes shall be submitted to and approved in writing by the local planning authority. The access shall be formed to Milton Road and provided with 2.4m x 43m visibility splays in either direction clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level. The temporary access shall be laid out and constructed in accordance with the approved details and retained during the period of construction.
- 7) Prior to commencement of the development hereby approved, a scheme detailing storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles within the site curtilage shall be submitted to and approved in writing by the local planning authority. The scheme shall be laid out and constructed in accordance with the approved details and retained during the period of construction.
- 8) Prior to commencement of the development hereby approved, a scheme to increase the width of the footway fronting the site to a minimum of 1.8m shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to occupation of the first dwelling on site and retained in perpetuity.

- 9) Prior to commencement of any dwelling hereby approved, a new vehicular access shall be laid out and constructed. The access shall have a minimum width of 4.8m, 6m radii and 2m x 43m visibility splays in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.
- 10) Throughout the construction period, vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
- 11) The proposed access road onto Milton Road shall be no steeper than 1:30 for the first 10 m from the nearside carriageway channel and 1:20 thereafter into the site.
- 12) In the event that ground contamination is found at any time when carrying out the approved development, it must be immediately reported in writing to the local planning authority. An investigation and risk assessment must be undertaken, and submitted to and approved in writing by the local planning authority. If remediation of the ground is necessary, a remediation scheme shall be prepared and approved in writing by the local planning authority. The remediation measures shall be implemented and prior to occupation of the first dwelling; a verification report shall be submitted to and approved in writing by the local planning authority.
- 13) All site clearance work shall be undertaken outside the bird-breeding season (March - September inclusive). If clearance works are to be carried out during this time, prior to the commencement of any development, a scheme regarding the method and specification of clearance shall be submitted and approved in writing by the local planning authority. Clearance works shall be carried out in accordance with the approved scheme.
- 14) The bat enhancement measures as detailed in the Bat and Bird Survey Report dated 26 June 2017 shall be implemented in full and maintained for the life of the development.

*****End of conditions*****



Appeal Decision

Site visit made on 3 April 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 16th April 2018

Appeal Ref: APP/F1040/D/17/3186869

Ivy Cottage, Boggy Lane, Church Broughton, Derbyshire, DE65 5AR

- 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 Kenneth Allsop against the decision of South Derbyshire District Council.
 - The application Ref 9/2017/0756, dated 12 July 2017, was refused by notice dated 8 September 2017.
 - The development proposed is a kitchen and porch extension.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council adopted a new Local Plan Part 2 in November 2017 after its refusal of planning permission. Policy H27 of the new local plan supersedes Housing Policy 13 of the previous South Derbyshire Local Plan (1998), which is referred to in the Council's Decision Notice. In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision.

Main Issue

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

Reasons

4. The appeal property is a detached house on the western side of Boggy Lane. It is the last property on this side of the road before reaching open countryside to the south.
5. The appeal property is positioned side-on to the street and faces towards a stable and horse riding area. The south facing elevation contains a main bay window and an existing porch serving the main entrance to the house. It is clearly the front elevation of property in my view. The proposed extension would protrude out significantly from this elevation and would be constructed over the main entrance. It would be a large, dominant feature that would significantly alter the appearance of the house. By virtue of its size and depth it would be out of keeping with the simple traditional character of the host property. It would also be prominently positioned next to the road. Whilst the

property contains an existing porch, this is much smaller in size and is of an open lightweight construction that is more sympathetic to the host property.

6. Boggy Lane is a minor road that becomes a narrow track and public footpath to the south of the appeal property. However, the proposed extension would be in a prominent position and would be clearly visible to passers-by. The quiet nature of Boggy Lane is not in itself a justification for the development.
7. For the above reasons, I conclude that the development would significantly harm the character and appearance of the host property and the surrounding area. It would therefore be contrary to Policy BNE 1 of the South Derbyshire Local Plan Part 1 (2016), Policy H27 of the South Derbyshire Local Plan Part 2 (2017), and guidance contained in the South Derbyshire Design Guide Supplementary Planning Document (2017). These policies and guidance seek to ensure, amongst other things, that residential extensions are of a scale and character in keeping with the host property and are not detrimental to the character and appearance of the area.

Other Matters

8. The development would not harm the privacy or living conditions of any neighbouring occupier. However, that is an ordinary requirement for new development and not in itself a positive benefit.
9. The appellant refers to a potential alternative scheme suggested by the Council. However, no details of any such scheme are before me. In any case, that is a separate matter between the appellant and the Council.

Conclusion

10. For the reasons given above, I conclude that the development would significantly harm the character and appearance of the host property and the surrounding area. Whilst the extension would provide additional security and storage space for the current occupiers, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR



Appeal Decision

Site visit made on 20 February 2018

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

an Inspector appointed by the Secretary of State

Decision date: 11th April 2018

Appeal Ref: APP/TPO/F1040/6461

61 Bretby Hollow, Newhall, Swadlincote, Derbyshire, DE11 0UE

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr Dave Barratt against the decision of South Derbyshire District Council.
 - The application Ref: 9/2017/0845 dated 1 August 2017, was refused by notice dated 27 September 2017.
 - The work proposed is Fell 1 No Sycamore (T3).
 - The relevant Tree Preservation Order (TPO) is South Derbyshire District (Land to the rear of Thorn Tree Lane) TPO No 130 (1995), which was confirmed on 16 July 1996.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The issues in this case are the impact of the removal of the Sycamore tree on the character and appearance of the area, and whether sufficient justification has been demonstrated for the proposed felling.

Reasons

3. The Sycamore (T3) is one of a number of trees covered by the TPO close to the rear garden boundaries of properties in Bretby Hollow and Thorn Tree Lane. Other trees covered by the same TPO mark a former field boundary to the east. When the TPO was made there were originally three protected trees within what is now the garden of No 61. However, one was removed prior to the appellant's occupation of the property, and another diseased tree was removed in recent years.
4. The tree is mature, with a height of about 12m and a spread of about 8m. It is located fairly centrally within the lower part of the garden, about 7.5m from the rear elevation of the house. It has been reduced in height and crown thinned on more than one occasion, but despite this appears to have responded well and has a reasonably good shape and form typical for a specimen of this maturity and species. The tree appears to have no major defects and no readily visible evidence of disease or decay.
5. As a consequence of its rear garden location, only the upper part of the tree canopy is visible between gaps in the houses on Bretby Close and Thorn Tree Lane. However, it contributes scale and maturity to the area and provides a

pleasant contrast to the built development that now surrounds it. In my opinion it meets the criteria for assessing the amenity value of trees, as set out in the Government's *Planning Practice Guidance*¹, and makes a positive contribution to the sylvan character and appearance of the surrounding area.

6. As such, its removal would leave a significant gap which it would take some time for any replacement tree to mature and fill. Overall, I consider that the loss of the tree would result in significant harm being caused to the character and appearance of the area.

Justification

7. Therefore, any reasons given to justify the removal of a healthy, protected tree need to be convincing. The appellant says the tree has outgrown its situation, has a dominating presence, and is inappropriate both in terms of its size and location in a domestic garden setting. However, the physical size of the tree does not in itself make it overbearing, and there are many examples of trees of this size and form within similar gardens.
8. It is inevitable that the tree has some impact on sunlight and daylight reaching parts of the garden and rear-facing windows of the house. However, the garden is reasonably sized, and provided that the tree is properly managed I consider that any impact from shade or dominance will be within acceptable levels of tolerance. Whilst I accept that large trees within residential gardens can be disproportionate, felling is not the only option that should be considered in terms of lessening the effects of many of the issues identified above. The appellant says regular pruning has been ineffective in the past (and expensive), as the tree quickly grows back to its previous height and bulk. However, I agree with the Council that regular crown reductions suggested as an alternative would result in a less dense crown which would reduce the tree's impact proportionately.
9. I may have reached a different view if the tree was located in a more constricted garden and/or in much closer proximity to the dwelling. However, the tree's canopy is well away from the closest part of the dwelling, and in this context I am not persuaded that it has outgrown its location or is unacceptably dominant.

Conclusion

10. With any application to fell protected trees a balancing exercise needs to be undertaken, where the essential need for the work must be weighed against the resultant loss to the amenity of the area.
11. Overall, having considered all matters, I conclude that the loss of this Sycamore tree would result in significant harm being caused to the character and appearance of the area. Insufficient justification has been provided to fell the tree and therefore the appeal should fail. As such it would conflict with Policy BNE7 of the *South Derbyshire Local Plan (Part 2)*, adopted 2 November 2017, which states that felling of protected trees will only be permitted in exceptional circumstances.

Nigel Harrison INSPECTOR

¹ Paragraph ID 36-008-20140306