



F. McArdle
Chief Executive

Civic Offices, Civic Way,
Swadlincote, Derbyshire DE11 0AH

www.south-derbys.gov.uk

Please ask for: Democratic Services

Phone: (01283) 595722 / 595848

Minicom: (01283) 595849

DX 23912 Swadlincote

Email :

democraticservices@south-derbys.gov.uk

Date: 1 August 2016

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 09 August 2016** at **18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**

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

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley.



Page 1 of 97



AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **3 - 94**
- 5** PROPOSED TREE PRESERVATION ORDER 426 AT TREE TOPS, FINDERN LANE, BURNASTON **95 - 97**

Exclusion of the Public and Press:

- 6** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 7** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

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, responses to County Matters and strategic submissions to the Secretary of State.

Reference	Item	Place	Ward	Page
9/2016/0348	1.1	Barrow on Trent	Aston	5
9/2016/0358	1.2	Barrow on Trent	Aston	18
9/2015/0561	1.3	Hartshorne	Woodville	22
9/2016/0181	1.4	Chellaston	Aston	38
9/2016/0322	1.5	Woodville	Woodville	47
9/2016/0344	1.6	Woodville	Woodville	68
9/2016/0399	1.7	Hilton	Hilton	71
9/2016/0504	1.8	Ticknall	Repton	79
9/2016/0559	1.9	Barrow on Trent	Aston	83

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

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

Item **1.1**

Reg. No. **9/2016/0348/FH**

Applicant:
Mr Robin Palin
32a Twyford Road
Barrow on Trent
Derby
DE73 7HA

Agent:
Mr Mark Pringle
Making Plans Architecture
Ivy Lodge
Twyford Road
Willington
DE65 6DE

Proposal: **THE ERECTION OF A SINGLE STOREY EXTENSION AT
32A TWYFORD ROAD BARROW ON TRENT DERBY**

Ward: **Aston**

Valid Date: **12/04/2016**

Members will recall deferring the determination of this case (and the accompanying application for Listed Building Consent) at the meeting of 28 June to seek a redesign of the extension. The report has been updated to include any further comments and a brief explanation of the design concept now employed. Otherwise the report relates to the earlier scheme.

Reason for committee determination

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

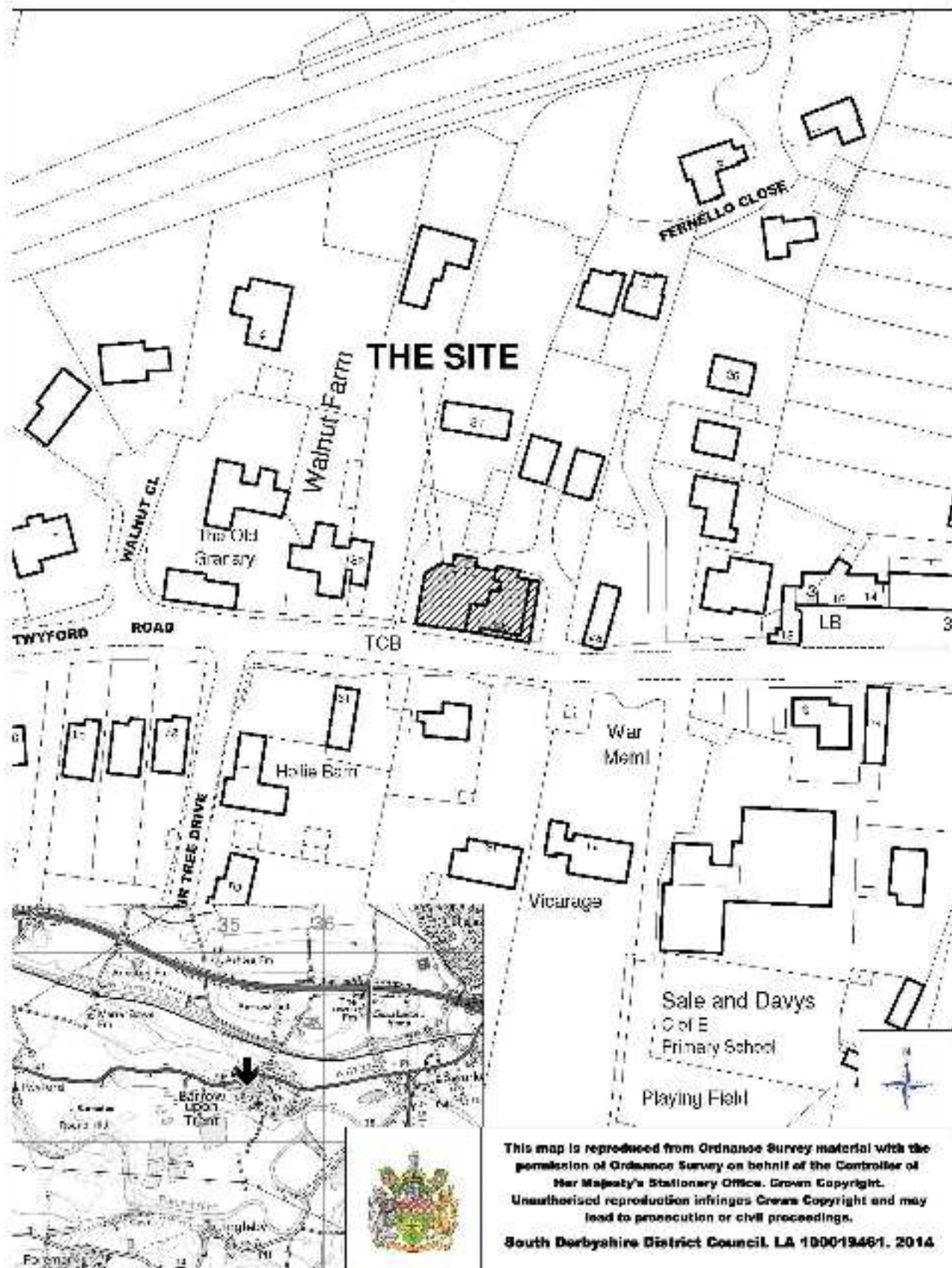
Site Description

32a Twyford Road is the former village primary school situated within the heart of and on the main thoroughfare through the village. It is a Grade II listed building within the Barrow on Trent Conservation Area. The school was constructed in 1843 with Jacobean details. It is single storey and of brick and tile construction with stone detailing. To the rear there is a small boiler house and a later lean-to extension and a redundant outdoor toilet block. The site is bounded by brick walls with railings atop said wall to the principle elevation.

Proposal

The application seeks approval for the demolition of the existing detached toilet block and the erection of a single storey contemporary flat roof extension to the rear of the Grade II listed building. The proposal also includes the part demolition of the later attached rear extensions to facilitate the integration of the new extension into the

9/2016/0348 & 0358 - 32a Twyford Road, Barrow on Trent, Derby DE73 7HA



existing building. *The latest amendment is a complete redesign of the scheme employing a much more traditional approach utilising red brick and plain clay tiles.*

Applicant's supporting information

Pre-application discussions were entered into with a specialist Conservation Consultant who was providing interim cover in the absence of a resident specialist officer. The following is a summary of the most salient points:

In assessing any application for listed building consent or planning permission, it will be very important to identify the significance of the listed building and the applicant would be expected to address this. This is very important in assessing proposals for a building which is compact, probably architect-designed and picturesque, as it is highly sensitive to change and extension and development within its setting.

Extension

Not all listed buildings can be extended satisfactorily without damaging their special interest. In view of the high significance of this listed building, any extensions will need to enable the compact and distinctive form of the building to be readable and visible. This does not just mean in views from the road - it was designed in the round.

One of the main considerations, in assessing the impact of alterations and extensions, is the economic viability of a use. As the building is currently in residential use and this is clearly a viable use, even though it is small, the building is clearly viable as a single dwelling in its present form. This would influence what may or may not be acceptable.

The building is still compact, despite a number of small extensions and a detached toilet block. This toilet block is clearly redundant and serves no useful purpose. I would have no objections to remodelling this toilet block into something more useful, and in doing so and to facilitate this, the loss of the brick wall which once formed the back of the schoolyard would be expected. Any replacement structure could utilise the existing rear wall of the site and would be south-facing, so if a largely glazed elevation can be achieved, it may still need to take account of solar gain; internal blinds or brise soleil or an enlarged projecting canopy may be necessary, depending upon the use of this part of the extension. The internal floor area of this part could be 3.5 metres (max depth) by 4.8 metres (existing max. width), to provide a large workable floor area for a number of different uses. One of the options that could be considered is the use of the rear wall of the toilet block for a monopitch slate roof. It is something to be considered but a flat roof may be less intrusive overall and in conjunction with an extension to the main building – continuity of design will be very important.

The relationship of school playground, toilet block and school is still an important one, and the break in the built-up frontage, with the space provided for the schoolyard, is an important part of the setting of the school, even though this was a later addition; it reflects the changing culture of schools. It is part of its history and part of its character as a listed building.

For this reason, it is important to preserve the open character of the former school yard and I would be opposed to any increase in the height of the boundary wall. The school was a public building, and designed to be a landmark in views along Twyford Road. Any alteration to heighten the boundary wall, to reduce the amount that can be seen of the school, would harm the character of the listed building and the conservation area.

Design Principles

The listed building is a picturesque, architect-designed public building, of very high quality and distinctive architecture. For this reason, it is considered that the right approach is to adopt a subtle and stream-lined modern approach, to separate the new from the old and to suppress the height of the new building. Part of the historic interest of the building is its compact form and small size, as a village school, and this would be confused and harmed by large rambling extensions of the same form and material as the original building. A contemporary approach also enables the designer to consider options such as a flat roof and very slim details, such as lightweight aluminium-framed glazing, frameless/planar glazing/structural glass. As the original listed building is very small, this provides much greater scope to design an extension which makes best use of the available space but is also more lightweight in appearance and has less massing than a brick-built traditional extension. This is considered the right way to go in this location.

The existing lean-to building attached to the rear of the school building is a much later addition and of relatively low interest, as it seems to have functioned simply as a large porch. It would be feasible to replace this structure with a larger building but this would be naturally limited in size by the existing site constraints (e.g. 6.7 metres to the back wall and 3.3 metres internal width to the building break). The justification for the demolition of this structure would be on the basis that the proposed replacement structure had a neutral (or positive) impact. It is important that even on the back elevation, that the extension should be subservient to the original building. The form of the original building and the later extension to the east and to the north should still be articulated, readable and visible. For this reason, and to ensure that any new development is subservient, it is recommended that the line of any extension follows the natural break in the building, between the first phase and second phase (making an internal width of approximately 3.3 metres). This could then extend out to the rear boundary of the site and take in the existing bathroom.

The possibility of designing a flat-roofed extension on site was discussed and this option should be explored. There are various sympathetic treatments for roofs; e.g. standing seam in terne-coated stainless steel, zinc, or lead, or even a sedum roof may be appropriate in this instance. The edge of the roof will need to have a clean line and should visually sit underneath the original stone corbelled kneeler of the main building. A parapet may be appropriate but also a projecting, fin-like projecting awning with glazing on the same line as the first phase /corbelled stone, is another option.

Overall, there is scope to extend the back of the listed building, as far as the rear boundary wall, and to replace the toilet block with a structure of slightly larger footprint. These two extensions could be linked together, with an enclosed lightweight corridor. The size of extension which was tabled at our meeting [this was

a traditional extension of brick and tile that picked up detail from the original building] was overwhelming and would be too dominant and would harm the character and setting of the listed building.

Critical to this approach is a bespoke contemporary design and detailed drawings of the front elevation in section and the relationship of the different elements would be required. The whole structure would need to be treated with similar design principles and continuity, ideally with the same eaves/roof line and the same simple glazing. However, depending upon the function of these rooms, a certain amount of screen walling would probably be required. This needs to respond to the listed building - keep it simple, unified in colour and with a simple palette of colours and materials. If using a largely glazed elevation to the west, based on a footprint of 3.3 metres by 6.7metres, there would be no need for a lantern; this would just add to the costs. Examples of designs, in the form of photographic images, have been attached which could be used for ideas, as well as details of an example of aluminium glazing called System 22 which is extremely lightweight in appearance – made by a company called “Fineline”.

Planning History

9/2007/1197/U & 1199/L – conversion of school to dwelling – approved 12/12/07

9/2010/0262/FH & 0263/L – extension and loft conversion – refused 30/04/10

9/2010/0662/FH & 0663/L – loft conversion and 2 rooflights – approved 26/08/10

9/2014/1017/TC – felling of self-set Sycamore tree – consent given 05/12/14

9/2014/1188/FH – alterations and extension of boundary wall and vehicular access – refused 13/02/15

9/2015/1126/FH – alterations to boundary wall, new pedestrian gates and bin store – approved 18/03/16

Responses to Consultations

The Conservation Officer advised that the proposal would be acceptable in principle subject to the following amendments:

- a) Removal of rooflight to the porch. If light is required in this area a narrow slot window should be inserted with stone header and cill. This would allow it to reflect the Jacobean character of the building.
- b) To ensure that the proposal is subservient it is recommend that the glazed porch area of the proposed hall be moved back towards the edge of the original building as recommended in the pre-application conservation advice. This would ensure that the school building retains its dominance within the site and that there is clear separation between the historic 19th century school building and the contemporary extension. This may require some minor remodelling of the interior. Ideally the proposed window to the en-suite bathroom should be removed and a rooflight used instead. It should be noted

that we would recommend high quality detailing to the extension. It may be useful to submit the eaves detailing to ensure that this is a slim feature as practical to retain a modern contemporary lightweight feel.

Amended plans in line with the above comments were received on 24th May 2016. The missing side window to the porch was added to the drawings and a further amended plan was received on 13th June.

Responses to Publicity

At the time of writing the application is subject to reconsultation, with this period expiring on 18th June 2016. Any further objections received up to this date will be reported verbally at committee.

Barrow upon Trent Parish Council objects to the proposals for the following reasons:

- a) This property is a listed building and as stated on the SDDC conservation and heritage advice page, works to listed buildings should not be harmful to their special historic and architectural interest. Demolition of any part of the building would significantly affect this.
- b) The Parish Council feel very strongly that any changes to this property would impact greatly on the historical value of this property; it is located in the heart of the village and very visible to all. As stated in the Barrow upon Trent Conservation statement (page 16) the former Sale and Davys village school is an important, compact, building.
- c) The original planning permission for the conversion of the school building into residential premises (2007) stated the work on the conversion of the building should be sympathetic to the appearance of the building and the character of the area; the design approach must be sympathetic, with minimum impact, and there should be no interference with the front brick playground wall.
- d) SDDC has already allowed the last point to be breached by allowing extensive work on the playground wall.
- e) In addition, the original 2007 grant of the Listed Building planning application stated that as few alterations to the existing building as possible should be undertaken, boundary walls, railings and fencing should be retained, and owners' cars will be parked on the street as vehicular access cannot be formed.
- f) SDDC has designated the centre of Barrow upon Trent village as a conservation area in order to preserve its character and heritage: "A conservation area is an area of special architectural or historic importance, the character of which it is desirable to preserve or enhance. There are 22 conservation areas in South Derbyshire, each with a unique identity and style that we want to protect from indiscriminate change. This does not mean that every detail and feature of the area should be preserved, as it is the character of the area that is important. For this reason, any development in conservation areas, including extensions and modifications of existing buildings as well as the construction of new buildings must be done in a way that compliments the aesthetic qualities of the area." The proposed extension, by its very modern nature, defies the reason for the Conservation area, and is in the very centre of the village and visible to all. There appears to be little point in having either

designated Conservation Areas or Character Statements about heritage features in the South Derbyshire area if this application is allowed to proceed.

- g) The amended plans take no heed of the area and the heritage/conservation status of this area of the village road.

4 objections have been received as a result of the reconsultation, raising the following concerns/points:

- a) Objector cannot understand why the extension has not been made to blend in with the original building. The extension is more applicable to a modern building and looks totally at odds with the old school which is sad as it is a lovely building;
- b) The proposed building is in complete contravention of all the reasons that this part of the village has been designated a conservation area and has been given heritage status by South Derbyshire;
- c) The owner was originally given permission to convert to a domestic dwelling with certain circumscribed conditions. One of these has already been ignored – the change to the frontage of the playground. The original permission also requested that the appearance of the building essentially remained as it was originally;
- d) The proposed extension is completely unsympathetic to the surrounding area, is visible to all who pass and is in the centre of the conservation area;
- e) Although its origins are not clear, the earlier history of the school mirrors the history of rural England, with all the major local families involved in its development; the Sales, the Davy brothers, the Harpur Crewes, the Dalrymples and the des Voeux. The history of our village continues through the local families who attended or supported it and its unique style and positioning with the Old Post Office, the Row (old cottages) and the former farm buildings will be destroyed if the character is changed so radically. As Ms Morris puts it – “ it reflects the changing culture of schools. It is part of its history and part of its character as a listed building”;
- f) The alterations to the building were designed by George Edwards in 1913. Edwards was an artist and architect who lived in Barrow upon Trent most of his life and who, for part of that time, stayed with the well-known local artist, George Turner and his family. Although not a great deal is known about his life he submitted a drawing for a memorial to be built in the King Edward Memorial Park c.1912, in memory of King Edward VII that was opened in 1922. When he died in 1944 he owned four properties and land in Barrow upon Trent and his drawings for the alteration of the school and his proposed memorial may be seen in Matlock. The existing lean-to building attached to the rear of the school building that Ms Morris refers to was used as the senior classroom not simply as a large porch and brings back memories of a very intimate space with Spartan heating and conditions, and as Ms Morris points out it is not only the view from the road that it is relevant “it was designed in the round”.
- g) The attachment of such a large, modern extension (twice the size of the original building) which, although it may pass as an acceptable building, is totally out of character, will completely destroy one of the few remaining images of our rural past and the ambiance of this conservation area;

- h) In 2007 when the Derby Diocesan Board of Education applied for 'change of use' from a school to a dwelling house (applications 9/2007/1197/U and 9/2007/1199/L), Marilyn Hallard, the then environmental advisor, stated that: 'the design approach must be sympathetic, with minimum impact'. Marilyn Hallard would not accept any interference with the front brick playground wall – e.g. to allow a vehicular access point; This stricture has already been ignored In the recent application conservation response by Mel Morris Conservation, she writes "Mr Paling stated that Philip Heath has already agreed in principle to removing a section of the wall to create off-street parking, although this has not been recorded in writing". The front brick playground wall has already been altered despite the instructions at change of use. In the original impact assessment, it states "as agreed with Marilyn Hallard the proposed scheme, shown on drawing no 404.02A, makes as few alterations to the existing building as possible";
- i) There are many other references in the original document at the time of 'change of use' to minimum impact and these were the regulations when the house was sold by the Derby Diocesan Board of Education; conditions that the Board had to agree to and regulations that the purchaser consented to. I see no point in having a listed building; a conservation area and regulations regarding change of use, if they are to be blatantly ignored. I strongly object to the alterations proposed to 'The Old School' Twyford Road on the grounds that it will damage the existing conservation area, and destroy the character of an important local building.

It should be noted that comments e) – i) were submitted under application 9/2016/0358 only but are relevant to this application also.

Development Plan Policies

The relevant policies are:

- 1998 Local Plan (saved policies): Housing Policy 13 (Residential extensions) and Environment Policies 12 (Conservation areas) and 13 (Listed or other buildings of architectural or historic importance).
- 2016 Local Plan Part 1: S2 (Presumption In Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE2: (Heritage Assets).

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- Planning Practice Guidance (PPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

Local Guidance

- Extending your Home Supplementary Planning Guidance (SPG) – May 2004
- Barrow upon Trent Conservation Area Character Statement (CACS) – Adopted 2011

Planning Considerations

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

- The impact of the development on the historic fabric, character and setting of the listed building;
- The impact of the development on the character and appearance of the conservation area; and
- The impact of the development on the amenities of the neighbouring properties.

Planning Assessment

Historic England (HE) positively encourages the re-use of redundant listed buildings in order to preserve them for future generations. Over recent years HE has produced numerous publications to champion those schemes where historic and contemporary designs have worked well together. The case studies in 'Shared Interest: Celebrating Investment in the Historic Environment' (HE publication, 1st March 2016) are a celebration of England's best heritage-led development schemes. Each shows that with imagination and skill, old buildings can be given a new and positive future. "Even before the good response to *Capital Solutions* (2004) – the London-focused forerunner to this [above-mentioned] publication – the constructive, collaborative way of working that characterises English Heritage's modern approach to conservation, had been widely welcomed. Greater pre-application consultation is resulting in more successful schemes. Investors are seeing heritage as an asset and are uniting the finest old and new architecture to leave a legacy that will inspire generations to come".

The HE website shows examples of those schemes where modern architecture has been combined successfully with old buildings.

The impact of the development on the historic fabric, character and setting of the listed building

The proposed extension (as amended) is the culmination of extensive site meetings and discussions with regard to finding the best way to extend the current building which is prominent in the streetscape, is grade II listed and adds to the character and appearance of the Barrow upon Trent Conservation Area. Due to the ornate and unique character of the building it was felt that an extension that attempted to be in keeping with the host would produce a pastiche design that would not sit well with the building and would detract from and possibly overwhelm its character. The modern approach was felt to be the best way forward in order to minimise the impact

on the special character of the building with the new addition being kept deliberately low and of plain character.

There would be minimal disturbance of the historic fabric and internal integrity of the principle listed building with the majority of the demolition and alteration works occurring to the later additions to the rear. The detached toilet block is of no particular historic or architectural merit and is in a state of disrepair and its removal to facilitate the building of the extension would be considered acceptable.

The proposed extension is of a low level and contemporary design which would allow it to be read as a modern addition to the original school building. It would be subservient to the host and would not detract from the special character of the existing school building. The school has had a number of extensions over time in two different styles and the proposed extension would add to the story and understanding of the building.

The originally submitted plans were detailed in line with the specialist conservation advice given and have been amended to take into account of further suggestions of the Conservation Officer. The amended scheme is considered to be a positive approach to extending the building without compromising the unique character of the existing building.

As such the amended scheme would conform to the requirements of Saved Environment Policy 13 and Policies BNE1 and BNE2 in that it would not adversely affect the historic fabric, internal integrity or external appearance of the principle building or its setting.

The latest amendment shows a much more traditional yet simple approach than previously and as such is considered to accord more closely with the sentiments of the Committee in June. The extension has been designed to sit in a subordinate position on the site and employ windows of a similar design to that of the principle listed building. The elevations should now appear recessive on the site therefore allowing the listed building to continue to dominate its position in the street and the conservation area. The extension is shown connected to the main building with a 'light-weight' glass link designed to give the illusion of separation from the original historic building. To the rear of the new extension, a small area of flat roof close to the boundary allows the boundary wall to be continued around the perimeter utilising a brick parapet thus hiding the flat roof and roof-lights behind. The flat roof element also allows the pitched roof element to remain subservient to the main building by reducing the width of the gables. As such the proposed development would not detract from the listed building or its setting, or the conservation area thus safeguarding the significance of the heritage assets.

The impact of the development on the character and appearance of the Conservation Area

The amended scheme is considered to be a positive and innovative approach to extending the building which would show its evolution over time and is considered to be a solution that would enhance and therefore preserve the character and appearance of the Conservation Area.

As such the amended scheme would conform to the requirements of Saved Environment Policy 12 and Policies BNE1 and BNE2 in that it would not adversely affect the character and appearance of the Conservation Area or the general character of the area. (*see above*)

The impact of the development on the amenities of the neighbouring properties

Ground levels between the application property and the surrounding neighbours are relatively flat and there is adequate separation distance between the new bedroom window in the rear wall of the proposed extension and the main habitable rooms of the nearest neighbours to the north of the site. The neighbours to the east, west and south would not be affected by the proposed extension due to separation distances being in excess of the minimum distances required in the Council's SPG.

The proposed new window in the east side of the existing front porch would light a non-habitable single storey space and is located such that it would not impact on any of the surrounding neighbours. This alteration was recommended by the Conservation Officer in lieu of the originally proposed rooflight in the east side of the porch roof which due to its size would have visually disrupted the clean lines of this roof and caused harm to the fabric of the building.

As such the amended proposal would conform to the requirements of the Council's SPG (Extending your Home), Saved Housing Policy 13 and Policies BNE1 and SD1 in that it would not adversely affect the amenities of the neighbouring properties.

The recent amendment would have no greater impact on private amenity and therefore would comply with policy.

The amended proposal would conform to the requirements of the NPPF and the NPPG and Policy S2 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's J1932-02 Rev E, received 24th May 2016 and

J1932-05 Rev E, received 13th June 2016; 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, the original submission being considered unacceptable.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the 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 existing building and the locality generally.

4. Large scale drawings to a minimum Scale of 1:10 of eaves detail, rainwater goods (including gutter profile and fixings and downpipe profiles and positions) and external joinery (including the aluminium screens and shutters), including horizontal and vertical sections, precise construction method of opening and cill, lintel and threshold details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

5. All new external joinery (excluding the aluminium screen windows and shutters) shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

6. The aluminium screen windows and shutters shall have a matt grey finish, the shade of which shall be agreed in writing with the Local Planning Authority. The items shall be coated with the agreed colour within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

7. Notwithstanding any details submitted, precise details of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area as the rooflights appear to be domed and are visible above the top of the approved extension.

8. Pointing of the existing/proposed brick walls of the extension hereby approved shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish. The brick bond shall match the existing building.

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

9. A sample panel of pointed brickwork 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.

10. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum, that:

(1) Floor levels within the proposed development will be set no lower than existing levels AND,

(2) Flood proofing of the proposed development has been considered by the applicant and incorporated where appropriate.

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

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through extensive pre-application discussions and site visits and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. In the event that condition 10 is insufficient and floor levels within the extension must be set 300mm above the known or modelled 1 in 100 year (annual probability 1% chance) river flood level or 1 in 200 year (annual probability 0.5% chance) tidal & coastal flood level (which has been demonstrated by a plan to Ordnance Datum/GPS showing finished floor levels relative to the known or modelled flood level), it is likely that a further planning permission would be required.

Item **1.2**

Reg. No. **9/2016/0358/L**

Applicant:
Mr Robin Palin
32a Twyford Road
Barrow on Trent
Derby
DE73 7HA

Agent:
Mr Mark Pringle
Making Plans Architecture
Ivy Lodge
Twyford Road
Willington
DE65 6DE

Proposal: **DEMOLITION OF REAR TOILET BLOCK TO FACILITATE
THE ERECTION OF A SINGLE STOREY EXTENSION AT
32A TWYFORD ROAD BARROW ON TRENT DERBY**

Ward: **Aston**

Valid Date: **12/04/2016**

This application accompanies application 9/2016/0348 above which considers the merits of the case.

Recommendation

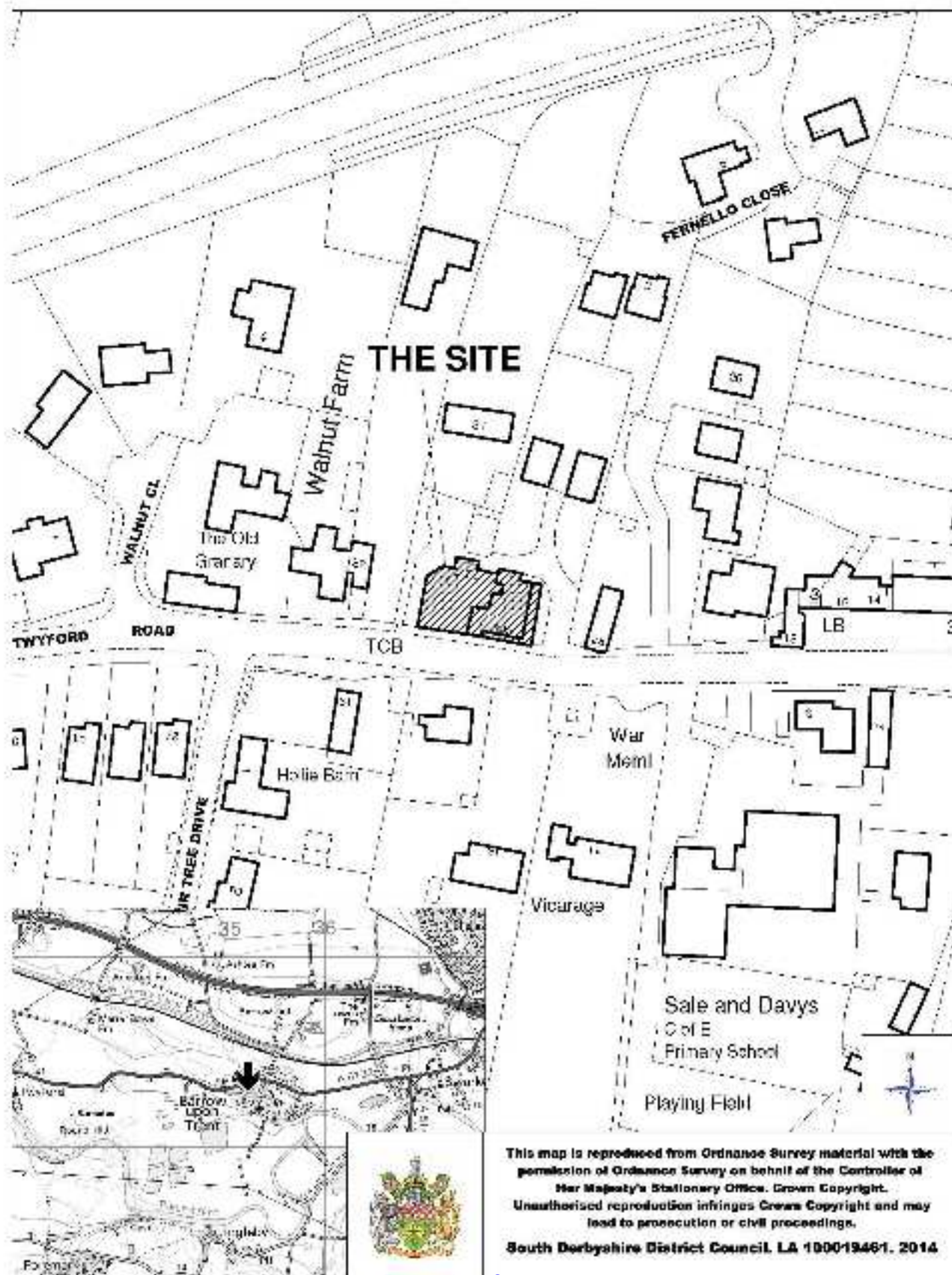
GRANT listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's J1932-02 Rev E, received 24th May 2016 and J1932-05 Rev E, received 13th June 2016; 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, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the 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.

9/2016/0348 & 0358 - 32a Twyford Road, Barrow on Trent, Derby DE73 7HA



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

4. Large scale drawings to a minimum Scale of 1:10 of eaves detail, rainwater goods (including gutter profile and fixings and downpipe profiles and positions) and external joinery (including the aluminium screens and shutters), including horizontal and vertical sections, precise construction method of opening and cill, lintel and threshold details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

5. All new external joinery (excluding the aluminium screen windows and shutters) shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

6. The aluminium screen windows and shutters shall have a matt grey finish, the shade of which shall be agreed in writing with the Local Planning Authority. The items shall be coated with the agreed colour within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

7. Notwithstanding any details submitted, precise details of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area as the rooflights appear to be domed and are visible above the top of the approved extension.

8. Pointing of the existing/proposed brick walls of the extension hereby approved shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish. The brick bond shall match the existing building.

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

9. A sample panel of pointed brickwork 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through extensive pre-application discussions and site visits and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.3

Reg. No. 9/2015/0561/OX

Applicant:
Mr & Mrs M Mudge
c/o Agent

Agent:
Mr Andrew Thomas
Thomas Taylor Planning Ltd
Castle House
South Street
Ashby de la Zouch
LE65 1BQ

Proposal: **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 7 DWELLINGS TOGETHER WITH ASSOCIATED ACCESS AND PARKING ARRANGEMENTS AND ALTERATIONS TO 43 REPTON ROAD HARTSHORNE SWADLINCOTE**

Ward: **Woodville**

Valid Date: **24/06/2015**

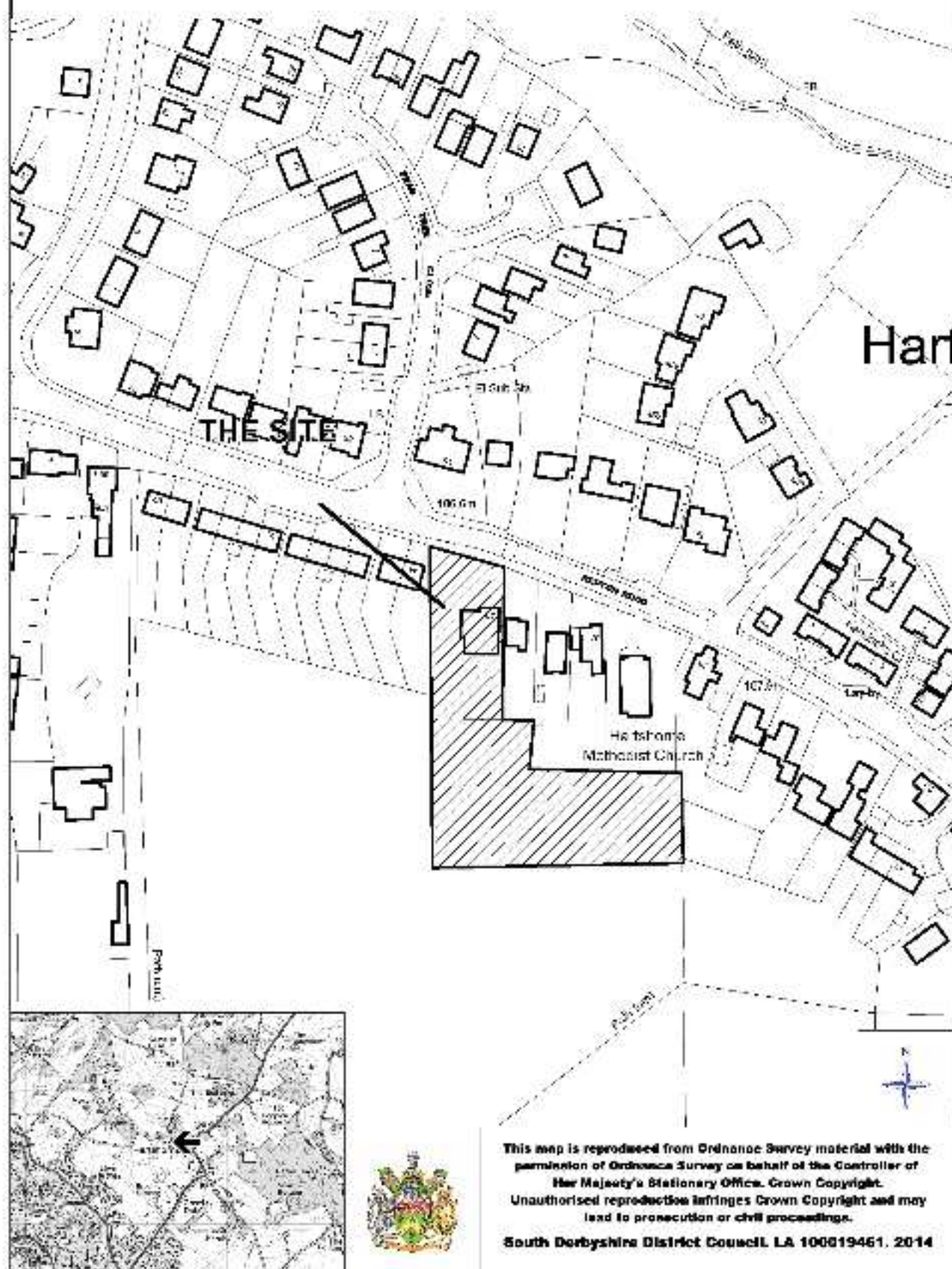
This item was first reported to committee on 25 August 2015 where it was resolved to grant permission subject to conditions and the completion of a legal agreement. Since then there have been delays in securing the completion of that legal agreement. Prevailing case law dictates that in such circumstances, where a decision has not been made, the decision maker is duty bound to keep an application under review; and if there is a material change to the relevant considerations upon which a decision might be based, the decision maker should revisit their resolution before determining the application. It is for this reason this item is referred back to committee.

For ease of reference, the original report is reproduced in full below with additions in *italics* and deletions ~~struck through~~.

Reason for committee determination

The item is presented to committee because this is a development not in accordance with the Development Plan, and at the request of Councillor Mrs Coe on the basis that local concern has been expressed about a particular issue, that the committee should debate the finely balanced issues in this case and consider unusual site circumstances.

9/2015/0561 - 43 REPTON ROAD, HARTSHORNE, DE11 7AF



Site Description

The site comprises the curtilage of 43 Repton Road which comprises a detached two-storey house set within an extensive domestic garden area to its rear, extending to approximately 0.38 hectares. The site is L-shaped extending around the rear of numbers 35 to 41 Repton Road, number 35 being the former Methodist Chapel now converted to a dwelling. To the west is the rear garden for number 45 and agricultural land beyond, the latter extending around the south of the site. A public footpath crosses that field beyond the southern boundary, leading towards the cricket ground to the east. Repton Road is subject to traffic-calming measures across the site frontage, and an existing vehicular access serves the property from a gravelled parking/turning area.

The site is level and enclosed by a mix of mature trees and hedges. A pergola and timber decking area with water feature is located in the rear garden together with a mix of lawn and shrubs. The site has a general appearance of a mature garden. There is a mix of house styles in the immediate area with the majority comprising detached or semi-detached houses although some bungalows and terraces of houses are also present.

Proposal

The application is made in outline with all matters reserved and seeks to establish the principle of residential development of up to 7 new dwellings together with the formation of a revised access to Repton Road and associated alterations to 43 Repton Road (demolition of conservatory and provision of replacement screen walling). Notwithstanding this an indicative layout typical streetscene elevation has been submitted to suggest principles for access, layout, scale, appearance and landscaping (the “reserved matters”). These suggest the development of one 3-bed bungalow; four 3-bed houses and two 4-bed houses.

Applicant’s supporting information

The Design and Access Statement sets out the design principles for the development. The principal objective being to ensure the development of the site in a way which is sympathetic to its surroundings. A variety of styles of building and materials are found throughout the village and nearby. Subsequent submission of design details would demonstrate a scheme which compliments its surroundings and reinforces local identity by reflecting local building characteristics.

6 two storey dwellings are indicated with ridge height of approximately 8.5m in a mix of semi-detached and detached houses. The illustrative proposals also show a single-storey property on the site where development would be closest to the rear of existing properties on Repton Road (although this could also have rooms in the roof-space subject to detailed design and providing controlled aspect where necessary). The proposed dwellings would be arranged as a small group, typical of development throughout Hartshorne. The dwellings would likely be of brick construction with tiled roofs whilst landscaping would look to retain mature hedges and trees wherever possible. Vehicle parking and circulation areas within the site would mostly be hard

surfaced and a new private drive access would be formed to serve the development and the existing house.

A Planning Statement outlines the principles of national and local policies, including sustainable development. It is advanced that the Council cannot identify sufficient land to satisfy its objectively assessed housing need in accordance with the requirements of the NPPF and little weight can be attached to the existing Local Plan policies. Notwithstanding the policy approach, these proposals are considered to represent sustainable development in their own right and in a form which is in accordance with the policies of the emerging Plan. Furthermore there would be no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the NPPF taken as a whole. Whilst this is a relatively modest housing proposal it would provide 7 new dwellings that would make a contribution to the supply of housing in the rural area in a way that would be entirely in-balance and compatible with the pattern and scale of development in Hartshorne. The provision of new housing would contribute to the current housing shortfall and would support the vitality and viability of Hartshorne. Furthermore the proposals would not harm highway safety or have an unacceptable impact on trees or ecology. Any remaining issues can be resolved through the imposition of suitably worded conditions.

An Ecological Survey identifies a former, now dry, pond within the garden which, given records of Great Crested Newt within 230m of the site, requires precautionary mitigation to protect against the newts in terrestrial form. The survey also considered potential for bats within the part of the dwelling to be removed and within trees, but no roosts were identified although existing hedgerows and trees should be retained to facilitate foraging and commuting. There is potential for disturbance to nesting birds by removal of trees, but control can be exercised over this. No other protected species or designated sites would be affected by the development.

An Arboricultural Report and Method Statement identify the existing trees on and influenced by the proposed development, assessing their value and suitability for retention. Root Protection Area (RPA) of the trees surveyed are calculated and recorded, and it is at this distance/around this area that tree protective barriers should be erected around any trees to be retained. Where construction is proposed within these areas special techniques should be employed.

Planning History

None relevant.

Responses to Consultations

The County Highway Authority comments that Repton Road is subject to a 30mph speed limit and as such visibility splays measuring 2.4m x 43m are typically sought in both directions from any access. The submitted illustrative site plan shows splay lengths of only 33m. However Repton Road carries speed suppression features in the form of speed humps, reducing vehicle speeds adjacent to the site. This, coupled with guidance contained within Manual for Streets 2, leads to the conclusion that providing visibility is taken to the extremities of the site frontage in both directions;

visibility is acceptable. Elsewhere, whilst recognising the application is outline with all matters reserved, the Highway Authority advises, based on the indicative layout, that 7 dwellings could be accommodated within the site and suitable access arrangements can be secured. They advise that the applicant would be expected to provide swept path plans with any reserved matters application clearly demonstrating that refuse vehicles can manoeuvre within the site would be required and that they would unlikely to consider the eventual street for adoption. Accordingly, there are no highway objections subject to conditions being included.

The Pollution Control Officer recommends that conditions be attached to control dust emissions, noise and air quality on the site during the construction phase.

Severn Trent Water raises no objection but requests an informative be added.

Derbyshire Wildlife Trust notes the site lies within 250m of a small population of great crested newt and as a result could result in the loss of intermediate terrestrial habitat. However as the site is at the very edge of the 250m intermediate zone, areas of suitable habitat are small and there is a lack of indication that the site is on a dispersal route for great crested newt in this area; a condition requesting a great crested newt mitigation and a method statement should be attached. A condition should also prevent removal of potential nesting habitat during the bird breeding season.

The Southern Derbyshire CCG considers the site would not have a significant impact and in terms of its size it is not considered it merits a levy.

The County Council Policy Officer does not consider a request for contributions is warranted.

Responses to Publicity

Hartshorne Parish Council objects on the following grounds:

- i) the proposal falls outside the village envelope;
- ii) Hartshorne village is unsustainable with very limited transport links to the main towns in the area;
- iii) along other proposed development the existing school in Hartshorne would be unable to accommodate any additional students;
- iv) suitability of access onto Repton Road; and
- v) it being 'backland' development which affects the privacy and outlook of existing properties.

Hartshorne Village Residents Association (HVRA) urges rejection of the proposal for the following reasons:

- i) the site was once part of the arable field behind;
- ii) it is outside the village framework or envelope as defined;
- iii) a grant of permission would create a precedent which other developers would seek to exploit;

- iv) if granted it may prejudice or undermine any defence the Council may have in appeal on a current refusal in the village; and
- v) it would be an intrusion into the surrounding countryside.

3 objections have been received raising the following concerns:

- a) it would be a massive overdevelopment of an existing garden; concerns over the retention and future maintenance of existing and proposed trees adjacent to their property, and would prefer a brick wall to be erected instead;
- b) the proposed road is too narrow and would not provide suitable turning space for refuse and emergency vehicles;
- c) it would erode one of the old village streets with an 'out-of-character' access;
- d) the access would cause noise and disruption to homes; and
- e) the plans do not reflect that the "proposed garage" at the rear of the old Methodist Chapel is well under construction.

Development Plan Policies

The relevant policies are:

- *2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).*
- *Saved Local Plan 1998: Housing Policies 5, 8 and 11 (H5, H8 and H11); Transport Policy 6 (T6), Environment Policies 1, 9 and 11 (EV1, EV9 and EV11), Recreation & Tourism Policy 4 (RT4) and Community Facilities Policy 1 (C1).*

Emerging Development Plan Policies

The relevant policies are:

- ~~Submission Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Housing Balance), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation).~~
- *Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE5 (Development in the Countryside), BNE8 (Trees, Woodland and Hedgerows).*

National Guidance

- National Planning Policy Framework (NPPF) including (but not exclusively) paragraphs 6-8, 11-12, 14, 17, 32, 47, 49, 53, 73, 103, 109, 118, 120, 123, 203, 204, 206, 215 and 216.
- National Planning *Practice* Guidance (NPPG)

Local Guidance and Evidence

- Housing Design and Layout SPG.
- Section 106 Agreements – Guidance for Developers.
- The Strategic Housing Market Assessment 2013 (SHMA).
- Core Strategy Topic Paper – Settlement Hierarchy (July 2014).
- *Settlement Boundary Topic Paper (June 2016).*

Planning Considerations

As discussed above the application is made in outline with all matters of detail reserved. The main issues central to the determination of this application are:

- Principle of development and weight afforded to policy;
- Highway safety;
- Hedgerow, trees and ecology;
- Landscape and visual impacts;
- Drainage and flood risk; and
- Design and layout principles.

Planning Assessment

Principle of development and weight afforded to policy

The site lies outside the settlement confines for Hartshorne, not catered for by way of saved policy H5 and beyond the scope and intentions of saved policy H8. It therefore conflicts with H8 as well as saved policy EV1. ~~Beginning with H5, it is the view that this policy can be afforded little weight as it is no longer playing a part in significantly boosting the supply of housing.~~ *H5 can be afforded some weight once again given the existence of a 5 year housing supply such that the Council is significantly boosting the supply of housing through strategic allocations, secured permissions and windfall sites within settlement confines; but this weight is tempered by the age of the policy and it resting on dated settlement confines – confines which are being reviewed under emerging policy SDT1.* The purpose of H8 does not align with a proposal of this nature and thus the policy is not considered applicable. EV1 however is not a housing policy – it instead has an indirect effect of restraining delivery. Notwithstanding this, the policy accepts that some development in the countryside is unavoidable and indeed it could be argued that this proposal could fall as 'unavoidable' given the current shortage in the supply of housing. Nevertheless the policy goes on to consider safeguarding character and landscape quality, as well as ensuring all development in the countryside is designed so as to limit its impact on the countryside, and these secondary parts of the policy provide a considerable

degree of consistency with section 11 of the NPPF. *Recent appeal decisions have ratified this interpretation of the policy.*

With this in mind, the decision rests on the sustainability balance when considering the above policies and the merits of the proposal. The desire to significantly boost the supply of housing must be given significant weight, ~~particularly in light of shortfall of the 5-year housing supply.~~ The ~~emerging~~ *now adopted* Local Plan recognises this and seeks to provide this significant boost in a planned manner. The NPPF *however* allows flexibility in utilising existing residential gardens to provide for housing needs *and paragraph 55 promotes sustainable development in rural areas with housing located where it will enhance or maintain the vitality of rural communities.* The ~~emerging~~ Settlement Hierarchy envisages this quantum of development for Local Service Villages such as Hartshorne so there is ~~some~~ affinity with the emerging Plan. In this sense the principle of the existing services and infrastructure to support this scale of development has already been established at a strategic level, although detailed consideration of this remains necessary. There are also economic benefits arising from the whole proposal – both short and long term, with construction phase employment and subsequent occupation leading to increased revenue to local businesses and services.

The focus here turns to the fact the site lies outside of the settlement confines set out under the Development Plan. The proposal was considered to be sustainable by Members in reaching their original resolution on this application, and it is this resolution which has contributed to the proposed re-alignment of the confines to 'take in' this site under the Part 2 Local Plan. However this re-alignment is explained by the Settlement Boundary Topic Paper as included since it is a site granted planning permission for residential development where the land is physically/functionally related to the settlement. Attention is given to this final part of the criterion which has a purpose. This means that sites must also be well related to the settlement in order to be eligible to be included in the new settlement confines. It is considered some weight can be given to the intention to include the site under Part 2 of the Local Plan, and indeed to sustain the resolution previously reached would not undermine the plan process in this respect. It must also be noted that the NPPF does not preclude the effective use of residential gardens for delivery of housing.

*Consideration also needs to be given to the existence of a 5 year housing supply, contrasting with the situation in August 2015. This allows greater weight to be placed upon countryside protection policies as well as the settlement confines themselves, and inevitably this alters the planning balance. Whether this is determinative however is not clear on this point alone. ~~Setting the above matters aside,~~ The sustainability of the development is paramount *in reaching a decision, and the Local Plan recognises this under policy S2, with it important to strike the right balance between housing delivery and ensuring the environmental, social and economic needs of occupants and the existing community can be readily met. Whilst a lack of a 5-year supply might engage paragraph 49 of the NPPF, it does not automatically "stand down" local plan policies – merely challenges the weight which may be afforded to them; and an unsustainable development means the presumption in favour set out under paragraph 14 does not apply.* With this point in mind, attention is given to the impacts of the development and conflict with planning policy. For the presumption in favour of development to apply, sustainability must be viewed in the*

round whilst remembering that sustainable development is subjective – there is no minimum or consistent level beyond which a particular development can be said to be sustainable. It is a concept, and one that is determined differently from one site to another. The remaining parts of the report therefore give consideration to whether any other adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposals, after reaching a balance between the benefits and adverse impacts all the time noting that conditions or obligations may be used to mitigate or address an otherwise unsustainable impact.

Section 106 obligations

The site is of a scale which triggers consideration whether contributions towards education and healthcare would be required. Members will be aware that the NPPG was amended a while ago to preclude Councils from seeking contributions on developments of 10 or less. The guidance was very recently ~~quashed~~ *reinstated* in the High Court, *but with it made clear that the guidance does not necessarily override adopted policies and it is for the decision maker to determine whether to seek contributions on schemes below 10* ~~such that it appears that the Council's former threshold of 5 dwellings or more can be relied upon again. Unfortunately, due to the proximity of the ruling and the time of writing this report, it has not been possible to obtain comments from the County and the NHS. Any requests will therefore be reported to the Committee at the meeting.~~

The likely number of dwellings does also trigger consideration of impacts on play and open space, built and sports facilities. With no provision on site and with existing deficiencies identified in the local area which would be further compounded by this development, the seeking of financial contributions towards these items is warranted and CIL compliant. *The previous resolution was solely to secure sums towards play and open space, outdoor sports facilities and built facilities after the CCG and County Council confirmed they would not be seeking healthcare and education contributions. The size of this scheme can assist in delivering local social benefits through contributions whereas other smaller infill and windfall sites might not, and this benefit should be recognised in reaching the overall planning balance.*

Highway Safety

With the application in outline and no concern raised in respect of capacity of surrounding routes, the County Highway Authority has simply considered the ability to serve the development with safe and suitable access. Whilst visibility might fall below standard in terms of local guidance, recent national guidance allows for a greater degree of flexibility so that actual road speeds, as opposed to the posted limit, are considered in establishing visibility requirements. In this context it is considered that a safe access can be provided in line with ~~saved policy T6~~ *policy INF2* and paragraph 32 of the NPPF. Considering this further there is also a footway to the southern side of Repton Road allowing suitable access for a range of modes of transport.

The Highway Authority also consider there is sufficient room within the site to accommodate the dwellings proposed whilst simultaneously catering for adequate

access dimensions, and turning and parking space. Accordingly conditions are recommended.

Hedgerows, trees and ecology

There are a number of semi-mature and mature trees on or immediately adjacent to the site which might be under threat from any development of the site. These trees provide an important screening of the existing built form of Repton Road when viewed from the public footpath to the south, and would assist in softening and screening the proposed dwellings from this aspect. In response a Tree Preservation Order has been placed on selected individuals and groups, selectively protecting species and specimens worthy of merit and which would be appropriate in the context of new residential development. The Tree Officer supports this approach, making particular note of a group of young Oaks to the south-west corner which, when mature and subject to appropriate management, will provide a focus on the site. A tree protection condition is warranted in light of the status of the trees and importance of existing hedgerows in supplementing the biodiversity value of the site.

~~Whilst at the time of writing a response has not been received from the Wildlife Trust,~~ The survey appears to have been carried in accordance with recommended standards. The recommendations, as outlined above, are supported and it is considered the development is not constrained by significant protected species matters which could not be addressed by way of condition.

Landscape and visual impacts

The site carries no statutory or local landscape designations. Nevertheless the absence of a designation does not translate to a landscape which is not valued, and in turn one which the NPPF does not seek to protect. The correct approach, when reading section 11 of the NPPF as a whole and supported by an increasing number of appeal decisions, is to first determine what value the landscape has (if any) before determining the correct response to planning proposals.

This site lies within the Coalfield Village Farmlands Landscape Character Area and within the National Forest. The scale of the development and intrusion out from the existing urban form is not considered to be significant on a landscape basis, with the incursion seen within the character of the village. The character in this part of the village (known as Lower Hartshorne) is largely linear fashion. However the village is also characterised a handful of limited incursions away from the primary roads through the settlement, such as the former Chesterfield Arms (Adams Close) to the west, the rear of the bakery to the east, Millpool Crescent off Ticknall Road and (to a larger degree) Pear Tree Close opposite the site to the north of Repton Road. The key point to note however is the limited extent of the 'depth' of these developments away from the primary route, which maintains the predominantly linear character of this part of the wider settlement. *This is particularly the case with this site, which 'hugs' the existing built form and is viewed from public aspects to the south without being able to appreciate its depth. Furthermore, this site is presently a cultivated and enclosed private garden reducing its legibility as part of the open countryside.*

As to visual impacts existing residents would suffer a loss in aspect but as Members will be aware, loss of a private view is not a material planning consideration. The visual impacts are therefore confined to public vistas, in this case being from the road and the public footpath. From the road the development will be largely hidden from view with an access road providing the only suggestion of development. This access in itself would not sit out of kilter with existing minor roads and shared driveways in the vicinity. From the rear of the site, views of the development will be seen against the backdrop of existing built form and beyond the now protected tree line and existing and/or enhanced hedgerow. It would broadly reflect the 'tandem' arrangement of development to the rear of the bakery and adjoin existing residential gardens to the east. The visual impacts are therefore modest. Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not adversely affecting public aspects of the site.

Drainage and flood risk

Recent evidence from nearby sites suggests that the site can be suitably drained in terms of foul flows with capacity to receive flows at treatment works. In terms of flood risk the site lies within Flood Zone 1 pushing the focus towards ensuring suitable surface water drainage and/or attenuation on site to ensure flows leaving the site align with existing greenfield rates. A condition is appropriate to address these matters.

Design and amenity

Detail design matters would be reserved for consideration under a later application. Nevertheless the indicative masterplan achieves a broadly acceptable layout with separation which would likely accord with minimum standards set out in the SPG. The scale and design indicated also accords with local character and vernacular. Trees and shading would be an important consideration in the detailed design of the site but there is no reason to doubt that a suitable form of development could not be achieved.

Summary

The assessment identifies that highway safety, infrastructure, ecological, landscape and visual, and drainage impacts would be acceptable, subject to conditions or obligations where necessary; and a suitable form of development could be secured at reserved matters stage. The provision of up to 7 dwellings towards housing needs does carry weight in the overall context of housing need across the Plan period, given recent steers by Inspectors on appeals elsewhere – *even where a 5 year housing supply exists; and this weight must be significant weight given the current shortfall of a 5-year housing supply.* The economic benefits are also considered to contribute to a degree *whilst the social benefits must be recognised as carrying some weight. Whilst it is recognised that these benefits are tempered by the fact the site presently remains outside of the settlement confines; the direction of travel indicates that this site is well related to the settlement and could be included within the confines in due course.* Hence when considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is considered that this development is sustainable and the harm arising

is limited – *mainly to a policy harm* – and thus fails to outweigh the benefits of the proposal.

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 complete a Section 106 Agreement to secure financial contributions towards ~~education and healthcare (subject to CIL compliant requests being received prior to the meeting),~~ and open space, sports and built facilities; 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 the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters:

- (a) access
- (b) appearance;
- (c) landscaping;
- (d) layout; and
- (e) scale.

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).

2. (a) Application for approval of the 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 incorporate, in so far as relevant to that/those matter(s), the following specific detail:
 - (a) details of demolition/alteration necessary to number 43 Repton Road in order to facilitate access;
 - (b) details of proposed mitigation and biodiversity enhancement as outlined in section 6 of the Extended Phase 1 Survey by BJ Collins dated December 2014; and

(c) details of subterranean tree and hedgerow root protection/facilitation measures.

Reason: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under Building for Life criteria and Secured by Design, and in the interest of biodiversity conservation and enhancement.

4. No removal of buildings, hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

Reason: In the interests of safeguarding against harm to protected species.

5. No construction works shall take place on the site other than between 7:30am to 7:00pm Monday to Friday, and 7:30am to 1:30pm 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 preliminary 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.

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

8. No development or other operations on the site (including demolition, ground works and vegetation clearance) shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity, recognising the potential for permanent and long term damage to such features could occur at the outset of any works on site.

9. *No development or other operations on the site (including demolition, ground works and vegetation clearance) shall commence until further surveys for great crested newt have been undertaken at an optimum time and the findings, along with an appropriate mitigation strategy where the findings indicate the presence of the species, have been submitted to and approved in*

writing by the Local Planning Authority. The approved mitigation measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical equipment cannot pose injury or harm to the species and its habitat, or completion of the development, whichever occurs first.

Reason: In the interests of safeguarding protected species which may be present on or migrate across the site.

10. Before any other operations are commenced, the existing access shall be modified to Repton Road and provided with visibility sightlines extending from a point 2.4m metres from the carriageway edge, measured along the centreline of the access, to the extremities of the site frontage abutting the highway in each direction in accordance with a scheme submitted to and approved in writing by the Local Planning Authority under any application relating to access as a reserved matter. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety, recognising that construction works could cause unacceptable impacts.

11. 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 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 development.

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

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

Reason: In the interests of highway safety.

13. No development involving the construction of a dwelling shall commence until a scheme of noise mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The scheme should consider noise from the surrounding road network and any other local noise sources that are deemed significant to the site. The scheme shall then be implemented in accordance with the approved details.

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

14. The access, the subject of condition 9 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on both sides of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

15. The new dwellings, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking of residents' and visitors' vehicles, located, designed, laid out and constructed all as approved in writing by the Local Planning Authority under any application relating to access as a reserved matter, and thereafter maintained throughout the life of the development free from any impediment to its designated use.

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

16. The access, the subject of condition 5 above, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on both sides of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: To ensure an appropriate level of parking provision is provided and thereafter maintained for the life of the development, in the interests of highway safety.

Informatives

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through promptly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- c. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website:
www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- d. 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 owner.

- e. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken 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 (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- f. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals who will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
- g. New housing should be designed to addresses safety and the needs of vulnerable people. Domestic sprinkler systems are exceptionally effective through their ability to control a fire and help prevent loss of life. As a minimum, new residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems, and ideally should incorporate the sprinkler systems themselves. The cost of installing a 32mm mains water riser is approximately £26 per dwelling and the cost of a domestic sprinkler system is approximately £1500. Derbyshire Fire and Rescue Service can advise further on such provisions.

Item **1.4**

Reg. No. **9/2016/0181/RM**

Applicant:
Mrs Hannah Guy
Davidson House
Meridian Business Park
Meridian East
Leicester
LE19 1WZ

Agent:
Mrs Hannah Guy
Davidson House
Meridian Business Park
Meridian East
Leicester
LE19 1WZ

Proposal: **APPROVAL OF RESERVED MATTERS FOR 210 DWELLINGS WITH ASSOCIATED INFRASTRUCTURE, PUBLIC OPEN SPACE AND LEAP OF OUTLINE PLANNING PERMISSION 9/2012/0568 (REVISION TO RESERVED MATTERS APPROVAL REF: 9/2015/0210) ON LAND OFF SWARKESTONE ROAD CHELLASTON DERBY**

Ward: **Aston**

Valid Date: **04/03/2016**

Reason for committee determination

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

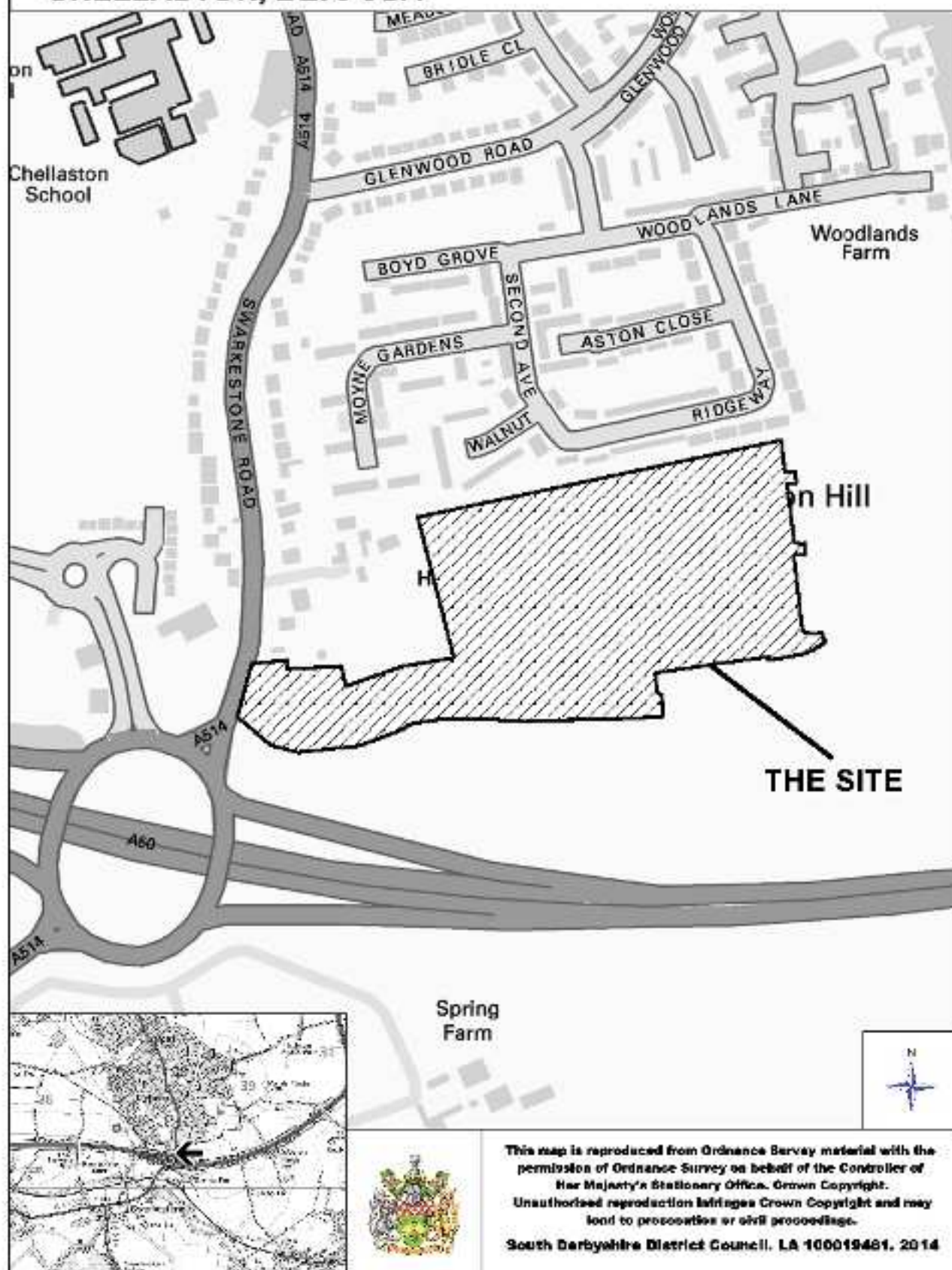
Site Description

The site lies on the edge of Chellaston, Derby and is bound to the south by the A50 and its embankment, landscaped as part of the trunk road project in the mid-1990s. To the east are hedgerows beyond which lies agricultural land, with the land rising towards this boundary and continuing thereafter. Mill House and other existing residential development is situated along Swarkestone Road (the A514) to the west, while to the north back gardens to residential properties along the Ridgeway and Walnut Close exist beyond further boundary hedgerow and trees. The development is partly underway through previous grants of permission, although the majority of the site is presently rough, unmanaged grassland with just a single tree away from boundary vegetation. The access has been created to the A514 and necessary alterations on that route completed.

Proposal

It is proposed to erect 210 dwellings in lieu of the 200 previously approved through a re-plan of this first phase of residential development.

**9/2016/0181-LAND OFF SWARKESTONE ROAD,
CHELLASTON, DE73 5UA**



Applicant's supporting information

A Building for Life (BfL) Statement considers the design to positively integrate into the neighbourhood and create a place with distinctive character and legibility to aid movement around the site. Public and private places will be appropriately delineated and adequate parking provision made to strengthen the street scene.

Planning History

- 9/2015/0210 Approval of reserved matters for 200 dwellings with associated infrastructure and public open space – Approved August 2015.
- 9/2012/0568 Outline application with all matters reserved (except for access) for up to 450 dwellings including the provision of a small discount supermarket (A1 use), local centre comprising of no more than five individual units (A1/A2/A3 use), day nursery (D1 use), primary school and open space - Approved January 2015.

Responses to Consultations

The Development Control Archaeologist notes there presently an outstanding condition on the outline consent, and although initial stages of fieldwork have taken place, the applicant has not yet provided the interim reporting or post-excavation proposals timetable necessary to secure condition discharge.

Severn Trent Water Ltd has no objection subject to condition.

The Lead Local Flood Authority has no comments to make.

The Environmental Protection Officer has no comments to make.

The Strategic Housing Manager notes that 2-bed flats/apartments are no longer in demand as a result of the changes to welfare reforms, whilst the recent reduction in rents has also impacted on viability and registered providers' (RPs) willingness to purchase this type of property. It is recommended that 2-bed houses are provided in lieu of flats/apartments. There is also some concern as to clustering of affordable housing and it not being spread across the whole phase and/or exceeding the limit set in the Section 106 Agreement. Nonetheless it is acknowledged that the layout has been previously agreed and the 2-bed flats (and more) could be constructed as part of that extant permission. Hence whilst prudent to take account of the changes to the affordable housing market, it is advised that the wider planning merits may take precedence here.

The Police Crime Prevention Design Adviser advised on the plans originally submitted, and now amended to accommodate the following concerns. It was noted that some of the key plots did not form excellent outlooks and side of plot parking was not overlooked, whilst enclosure details appear to be absent (albeit controlled by a condition on the outline consent). It is asked that any shared accesses are communally gated, key lockable from both sides and of iron construction, with keys to be shared by the affected plots (particularly plot 6).

Responses to Publicity

3 objections have been received, raising the following concerns:

- a) impact on the local road network;
- b) inadequate access arrangements, particularly the changes to the approach to the A50 island;
- c) highway safety and the likelihood of accidents;
- d) will access to the footpaths remain;
- e) the proposal differs from the indicative masterplan at outline;
- f) this land is a valuable resource for the local wildlife;
- g) loss/omission of wildlife corridor/buffer along northern edges;
- h) properties backing on will cause overlooking;
- i) the new plans make no mention of the proposed school, as previously promised;
- j) the local schools are already at capacity
- k) Chellaston is being hemmed in by all the surrounding developments and it is losing its village ethos;
- l) over population of the area of Chellaston; and
- m) the apartment blocks will be high and built on a hill increasing the perception of this height even further and making them extremely visible from Swarkestone in addition to approaches from surrounding areas, with it requested that that these be limited in height or moved out of view.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H14 (Chellaston Fields, Chellaston), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation)
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows)

National Guidance

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

Local Guidance

- The Provision of Outdoor Playing Space in New Developments (as updated by the Section 106 Guidance for Developers)
- Housing Design and Layout SPG

Planning Considerations

This reserved matters application relates to the north-west 'quarter' of the site and seeks to provide for 210 dwellings and in the same area as the previous approval for 200 dwellings. The associated public open space (POS) and locally equipped area for play (LEAP) would be to the same quantity as before, whilst the access road into the wider site would be provided as far as this phase, facilitating access onto the later parts of the site. With this in mind there are two important considerations to bear in mind throughout the discussion below. Firstly that the principle of the development is established through the extant outline permission and conditions on that permission control matters such as archaeology, drainage and ecology. The Section 106 agreement which accompanies the outline permission also established the parameters for affordable housing and provision of the school and local centre. In this respect, many of the concerns raised by representations are thus not substantial material considerations under this application which only seeks approval of details of appearance, landscaping, layout and scale. Secondly, an extant reserved matters permission exists for broadly the same quantum, arrangement and density of housing as now proposed. It is therefore necessary to compare that approved against that now presented in determining whether impacts are so unacceptable to withhold permission.

Planning Assessment

Layout and scale

The estate street network would be broadly the same as previously approved, with secondary roads leading off from the main spine road into the site – this being designed to serve the school and local centre alongside the housing development. Roads are stepped up onto tables at key junctions and remain raised when terminating in a cul-de-sac to both reduce vehicle speeds and provide legibility as a shared area with no through destination. This approach has been adopted on a number of sites across the District in recent years. The cycle route into the site would also be provided alongside the spine road. The County Highway Authority was satisfied under the previous application that concerns over highway trees, access to plots and width of footways and carriageways had been amended, and whilst a response has not been forthcoming to this application; there is nothing fundamentally at odds with the consented scheme which might cast doubt over this view.

2 parking spaces per dwelling should be provided as the norm. However this is not achieved across all plots, with only between 1.5 and 1.75 spaces to serve some dwellings. However this results in just 14 less spaces across the phase compared to 420 normally expected for a scheme of this size (3%). Given the properties affected are all smaller dwellings and there is some scope for a second vehicle depending on

the availability of the shared spaces, whilst any on-street parking would be confined to the cul-de-sacs and minor streets; there is not considered to be a sufficient reason to withhold permission here – particularly when the previous consent allowed for a similar situation and the larger properties have scope for 3 or more vehicles to be parked off the road.

Dwellings are laid so as to provide an outward looking edge onto the POS and LEAP and other public spaces, ensuring natural surveillance of these areas across the site. Backing and siding onto existing properties is also achieved without compromising separation distances set out in the SPG. The hedgerow to the northern boundaries is retained and to be enhanced as part of a wildlife corridor as defined in the outline masterplan. Strong feature properties are located on corners and in key locations, terminating views along roads. Boundary walls are drawn back from the back of the footway so to allow for greening of the street scene, and a condition can protect this character going forward.

Dwellinghouses would be 2 to 2.5 storey throughout. The flats would extend to 4 stories in height. However this is not considered to be out of context given other buildings in the locality, particularly those at the A50 junction. The existing approval also allows for the same block in the same position.

Appearance and landscaping

Extended negotiations have taken place to ensure an acceptable quality of design for the dwellings and their associated features, such as parking areas and boundary treatments. House types proposed have been adjusted to reflect the 1930s character within the locality of Chellaston. This includes bay windows, strong gable features and symmetry across the fenestration details. The mix of house styles and scales creates an evolving built environment that sensitively reflects the local vernacular whilst providing its own identity. Feature properties set on prominent corners in the site provide a double frontage, improving the natural surveillance of the street and interest for the viewer. Side surveillance windows to parking bays have been added. The tree lined streets are carried through the site, as best as possible, away from the spine road avenue – assisting in the transition between the built form and the open space.

It is noted that the level of POS falls below the standard normally expected for the number of dwellings proposed. However the level of open space required across the wider site could still adhere to adopted guidance when accounting for the later phases, whilst the LEAP is satisfactory.

Conclusion

Whilst there are elements of this scheme which are less than ideal, such as the SuDS position and parking provision; the additional 10 dwellings is not considered to compromise the ability to achieve an acceptable layout and overall design. With conditions able to control finer details and the outline conditions controlling other matters; it is considered the proposal achieves an appropriate design in the round.

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 planning layout MJ/210A Rev H; housetype plans/drawings 206/SunLand/P-01 Rev B, 206/M'Boro/P-01 Rev B, 206/Rufford/P-01 Rev C, 206/Yarm/P-01 Rev B, 206/Hatfield/P-01 Rev B, 206/Clayton-A/P-01 Rev B, 206/Beech/P-01 Rev B, 206/Roseberry/P-01 Rev C, 206/Chdwth/P-01 Rev B, 206/Leicester/P-01 Rev B, AW/CHE/MARY Rev A, AW/CHE/MARL, AW/CHE/DOW, AW/CHE/FEN-EL, AW/CHE/FEN-FL, AW/CHE/KNIGHT Rev B, AW/CHE/MAY Rev B, AW/CHE/WAR, AW/CHE/HARL, AW/MOU/REG-FL Rev A, AW/MOU/REG-EL Rev A, AW/CHE/FOG, AW/CHE/APT/FP1, AW/CHE/APT/FP2, AW/CHE/APT/EL, AW/CHE/SG5, AW/CHE/SG and AW/CHE/SDG; and detail drawings WALL-160, 206/Stone wall Rev A, 206NMEaves-01, GH_EDC_16 Rev C, BS_DPHA_GH Rev C, GH_EDC_16 Rev C, GH1200MD/9, 3221 Rev A and CH1 Rev A; 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.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no further boundary treatments shall erected forward of the walls and/or fences hereby approved.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

3. No development pursuant to this permission shall commence until a full list of the plots, roads and open space to be constructed/provided under this permission have first been deposited with the Local Planning Authority.

Reason: In recognition of the fact this permission allows, in part, for the same plots/development as already approved under permission ref: 9/2015/0210, so to allow for effective monitoring of the construction phase and subsequent occupation of the development.

4. Notwithstanding the detail drawings approved, prior to their installation alternative details of porches in lieu of those shown to be pre-moulded with a tiled appearance shall be submitted and approved in writing by the Local Planning Authority. Such details shall ensure the use of plain clay tiles or concrete tiles of equivalent dimension to plain clay tiles.

Reason: In the interests of local character and distinctiveness, recognising that pre-moulded options are not appropriate.

5. Notwithstanding the submitted details, large scale drawings to a minimum scale of 1:10 of, window cills and heads, eaves and verges and dentil/string course shall be submitted to and approved in writing by the Local Planning Authority before the construction of a dwelling pursuant to this permission commences. The window cills and heads, eaves and verges and dentil/string detail shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the buildings would be acceptable.
6. Gutters and downpipes shall have a black finish.
Reason: In the interests of the appearance of the buildings and the character of the area.
7. The proposed access drives to any plot fronting an internal estate road shall be no steeper than 1 in 15 for the first 5m from the proposed nearside highway boundary.
Reason: In the interests of highway safety.
8. There shall be no gates or other barriers within 5m of the proposed nearside highway boundary and any gates shall open inwards only.
Reason: In the interests of highway safety.
9. No dwelling constructed pursuant to this permission shall be occupied until space has been provided within the site in accordance with the approved drawings for the parking and manoeuvring of residents and visitors vehicles. Any such facility shall be laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
Reason: To provide adequate off-street parking, in the interests of highway safety.
10. Prior to the construction of a shared driveway or courtyard, details of bin collection points for all plots served by the driveway/courtyard shall be submitted to and approved in writing by the Local Planning Authority. Such spaces shall be adequate to cater for two wheelie bins per dwelling. The approved bin collection points shall be provided prior to the first occupation of a dwelling to which it relates.
Reason: In the interests of the appearance of the area.
11. Prior to its construction, detailed drawings/plans of the bin store for plots 19-28 shall be first submitted to and approved in writing by the Local Planning Authority. The bin store shall then be constructed in accordance with the approved plans and thereafter retained free of impediment to its use for the storage of bins.
Reason: To safeguard the appearance of the building and the locality generally.
12. Notwithstanding the plans submitted, prior to the first occupation of a dwelling built pursuant to this permission revised soft landscaping plans shall be submitted to and approved in writing by the Local Planning Authority.
Reason: For the avoidance of doubt, notwithstanding conditions attached to the outline permission and plans submitted with this application, noting that

the latter plans do not align with the approved layout; in the interests of the character of the area.

Informatives:

- a. This permission relates only to the matters hereby approved for the part of the wider site affected, as shown on the plans submitted. It remains necessary to comply with all conditions attached to the outline planning permission and associated planning obligations.
- b. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and promptly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- c. 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.
- d. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- e. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).
- f. Highway surface water shall be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- g. You are reminded of the requirements of condition 45 of the outline planning permission (ref: 9/2015/0210) which prevents more than 200 dwellings being occupied in advance of traffic being able to access the T12 link road connecting Holmleigh Way with Wilmore Road, Chellaston, Derby.

Item **1.5**

Reg. No. **9/2016/0322/SMD**

Applicant:
Mr Mick Goodwin
98 Goodwin Building Contractors Ltd
Main Street
Linton
Swadlincote
DE12 6QA

Agent:
Mr Stephen Eaton
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton on Trent
Staffordshire
DE14 1NG

Proposal: **RESIDENTIAL DEVELOPMENT OF 27 AFFORDABLE
HOUSING UNITS AT THE FORMER BRETBY POTTERY
SITE SWADLINCOTE ROAD WOODVILLE
SWADLINCOTE**

Ward: **Woodville**

Valid Date: **11/04/2016**

This application is to be considered jointly with application 9/2016/0344 below.

Reason for committee determination

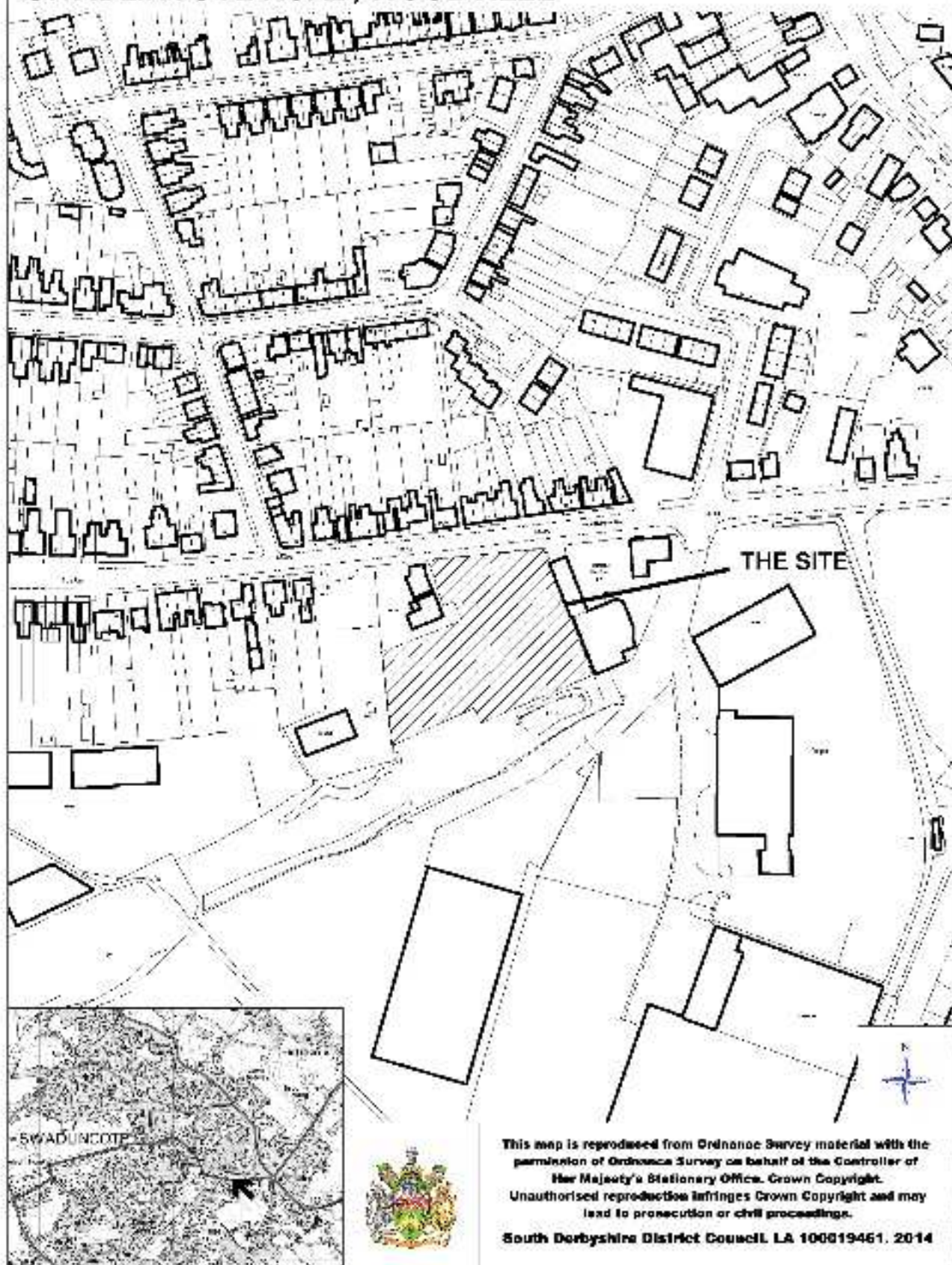
These applications for planning and listed building consent are presented to Committee at the request of Councillor Stephen Taylor as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee.

Site Description

The application site extends to 0.57ha and was previously occupied by a number of B2 (industrial) buildings associated with the Bretby Art Pottery. The site has been cleared of any buildings, save for the Grade II Listed Bretby Art Pottery showroom, which whilst outside the site, is closely associated with the site and plays a key part of the sites relationship to its surroundings.

The site is located to the east of Swadlincote Town centre, and approximately 350m from the Clock Island within the Swadlincote urban area. The site is bound to the north by Swadlincote Road, with existing Victorian terraced dwellings on the opposite side. The eastern boundary is formed by a single storey office building of brick and tile construction, with an area of scrub vegetation to the south of the site beyond which lies an existing haulage yard. The western boundary to the south of the Bretby Art Pottery building is shared with an existing scaffolding business.

**9/2016/0322 - FORMER BRETBY POTTERY SIDE,
SWADLINCOTE ROAD, WOODVILLE**



The topography of the site has a slight fall to the south and east, with the site levels approximately 1m lower than Swadlincote Road, and 1.5m lower than the existing dwellings on the opposite side of Swadlincote Road.

Proposal

The application proposes the erection of 27 dwellings for affordable housing purposes, comprising 10 one-bed dwellings; 10 two-bed dwellings; 5 three-bed dwellings; and 2 four-bed dwellings – all provided as a mix of maisonettes, terraced and semi-detached properties. A mix of social rented, affordable rented and intermediate housing is envisaged; the tenure and occupancy of the dwellings administered by Trent & Dove Housing. Vehicular access is proposed from Swadlincote Road, adjacent to the Bretby Art Pottery building, and an internal road would provide access to a shared driveway along the site frontage with dwellings set back from the northern boundary; as well as a central square and private driveways/courtyards beyond. A mix of parking solutions would provide for 2 spaces per dwelling, except for 1 bed units which are provided with at least 1.5 spaces per dwelling. Most properties would benefit from private amenity space and communal areas and bin storage for the other dwellings.

The application for listed building consent is required for the works to demolish the existing boundary wall to Swadlincote Road and its rebuild it to a reduced height of 900mm along its length (save for across the proposed access).

Applicant's supporting information

A Design & Access Statement (DAS) sets out the background to the proposals, a description of the site, an assessment of the relevant planning policy, the urban context of the site, and the constraints and opportunities that the site presents. The DAS highlights the importance of opening up views of the Bretby Art Pottery building and framing the existing building within the street scene, the enclosure of the streets, and the importance of providing vistas and focal areas within the scheme. The mix of housing within the scheme has been developed in conjunction with local housing associations and responds to local needs. The layout provides a well-defined square, overlooked on all sides with dwellings sited to provide strong frontages and individual curtilages. The individual dwellings look to provide a contemporary design with traditional elements of roofscape, size and identity. The use of render provides variation within the scheme and the overall materials are utilised to provide an uplifting, clean and sharp design feature.

The Heritage Statement highlights the importance of the Bretby Art Pottery showroom, and sets out the design rationale behind the proposed siting in order to improve the setting of the building and improve its appearance within the street scene. The proposed development is considered to have a positive impact on the listed building. The materials, landscaping and boundary treatments are considered to be sympathetic to the listed building.

A Noise Assessment sets out the policy background in the form of the National Planning Policy Guidance – Noise, the British Standard and the World Health Organisations standards. The site is affected by noise from 4 sources; local traffic on

Swadlincote Road; the Safe Scaffolding site to the west (operating generally during weekday daytime hours); Ward Recycling to the east (which operates throughout the week) ; and Jeffrey's Haulage to the south of the site (which operates into the weekday evenings but with 24/7 transport operation and call outs). Noise monitoring has been undertaken at the site, at locations relating to the above noise sources. The Assessment then discusses the site layout relative to the noise sources and makes specific recommendations relating to the glazing and ventilation required in order to mitigate noise from the road, and the surrounding industrial uses. This recommendation has included the provision of a 2.6m high acoustic fence along the western, eastern and southern boundaries of the site. The recommendations include specifications for the wall, roof, all windows which overlook Swadlincote Road, all other windows, and the provision of mechanical ventilation within the dwellings in order that the noise environment for all dwellings do not exceed the levels required by the World Health Organisation figures detailed in the British Standard.

The Transport Statement considers that, following the trip prediction for the site and the location of the site on one of the main thoroughfares in the District; the traffic impacts are considered to be minimal.

A Reptile and Newt Survey found, following no evidence of reptiles on the site and only 4 amphibians present (one common frog and three toads). The report therefore concludes that the site is not currently used by either reptiles or Great Crested Newts and the only recommendation is for the provision of a frog/toad house within the scheme.

A Bird and Bat Presence/Absence Survey Report finds that whilst the existing Bretby Art Pottery building has the potential to support roosting bats, none were recorded during the dusk activity surveys. This is probably due to the high levels of light pollution within the surrounding area, therefore the refurbishment of the building (whilst not the subject of this application) would have a negligible effect on the bird population. Feral pigeons are also noted to be currently nesting within the building, and as such any works to the building should be undertaken outside the bird nesting season but as pigeons tend to breed all year round it is recommended that the building is surveyed before any works are carried out, and that the building is secured to prevent re-entry.

The Drainage Strategy outlines the foul and surface water strategy for the site, which includes a pumped surface water solution with subterranean attenuation which represents a 64% reduction in the current runoff rate. The foul water is proposed to outfall to the existing manhole (confirmed as acceptable by Severn Trent Water).

A Geotechnical Investigation notes that trial pits and sample boreholes were undertaken at the site, in addition to chemical analysis and ground gas monitoring of the site. The surveys indicate the potential for contaminants to be present on the site, including the potential for shallow mine workings. In order to fully determine more accurately the effect of some of the identified hazards on the development, further investigation is recommended.

A Viability Assessment outlines that the build and infrastructure costs of the proposed development would not be sufficient to give surplus over and above the

projected development costs. Therefore contributions to off-site infrastructure would result in the development becoming unviable and undeliverable.

Planning History

9/2006/0278 The erection of a residential development comprising of the conversion of an existing listed building into a dwelling and erection apartments and houses with associated external works. Refused for the following reason:

“The potential noise intrusion from commercial sites in the vicinity would cause unacceptable living conditions for future occupiers of the application site”.

The proposal was then the subject of an appeal (APP/F1040/A/06/2029140). The Inspector noted that the site is in a noise-sensitive location bordered by commercial sites and Swadlincote Road. In considering the submitted noise assessments the Inspector opined that the proposed mitigation measures might reasonably reduce the noise impacts from the commercial premises to the east, south and west. In terms of the noise from Swadlincote Road the supporting appeal noise assessments recommended that there should be no habitable rooms facing the highway but the submitted plans included bedrooms facing the highway. The inspector dismissed the appeal as the submitted plans did not comply with the recommendations within the noise assessment.

Responses to Consultations

The Conservation Officer notes the existing Pottery building directly to the north west of the site is currently on the Derbyshire County heritage at risk list as it has been previously vandalised, although the building has recently been taken on by the Heritage Trust with a view of reusing the building. The Conservation Officer hopes that a contribution could be made towards the restoration of the building which would benefit the wider site. In terms of the proposal, the design and layout is considered to relate well to the building in a positive manner and protect views of the building from the Woodville approach. Whilst the material and detailing of the dwellings and landscaping will be important, the development is considered to cause less than substantial harm to the setting of the Pottery building. In terms of the listed wall, it is noted that parts of the wall closest to the building are later concrete additions which would benefit from being replaced in brick so as to remove a currently detracting feature. The proposals include the rebuilding of the existing brick wall to Swadlincote Road to 900mm tall and it is requested that the existing bricks and copings are utilised where possible. Overall it is considered that the enhancement of the setting of the listed building would provide the substantial public benefit necessary to justify the alterations to the wall and the development of the site.

Historic England considers that the Bretby Art Pottery showroom “is a delightful building and can be linked directly to the important pottery industry which shaped Swadlincote”. The building has been taken on by the Heritage Trust whose intention is to secure its repair and re-use. Without this the development of the land directly adjacent to the building would be a significant cause for concern. The advice is that

the Council satisfies itself that the proposed development does not prejudice the viability of the Grade II listed building. An important consideration will be appropriate landscaping and layout adjacent to the Art Pottery and that the boundary wall to be demolished is rebuilt using traditional construction methods and materials and to a high quality.

The Heritage Trust comment that they have recently acquired the adjacent listed building and, following amendments to the design of the proposed boundary wall, are content with the proposed development.

The Environmental Health Officer has carefully considered the submitted noise assessments and following additional site surveys is satisfied that a suitable living environment could be provided subject to the detailed mitigation measures outlined being implemented.

The Contaminated Land Officer considers that the development may be at risk from historical contamination and accordingly recommends conditions.

The Strategic Housing Manager considers that the proposed housing mix is appropriate and takes account of the current demand for affordable housing in this location. Conditions are recommended to secure the site for 100% affordable housing provision.

The Coal Authority notes that the site falls within a high risk area and as such there are coal mining risk hazards which need to be considered. As a result, intrusive site investigations are required in order to establish the exact situation regarding coal mining legacy issues on the site and a condition to this effect is recommended.

The County Highway Authority has no highway objections subject to conditions relating to the site access and the provision of car parking. They also note that the internal road is to remain private.

The County Planning Policy Officer advises that the proposed development would generate 2 infant, 3 junior, and 4 secondary age pupils. As Granville Sports College and Woodville CE Junior School are currently under capacity, no mitigation for junior and secondary education is required; but Woodville Infant School is already over capacity. As such a financial contribution of £22,798.02 towards the provision of 2 infant places at this school is requested.

The Development Control Archaeologist considers that as there is significant likelihood that the site contains the remains of the former Bretby Art Pottery, which would be of regional significance. As a result of this, a condition requiring a post-consent scheme of archaeological investigation and recording. This would involve undertaking a phase of evaluation trenching, and targeted open excavation and subsequent recording.

The Lead Local Flood Authority considers that a conditional approval of the development is appropriate for the site drainage. However they are concerned that the submitted proposals do not currently demonstrate that the drainage scheme for

the site is adequate, with it necessary to account for the desire to mimic natural drainage rather than a pumped system as proposed.

Derbyshire Wildlife Trust considers that the site has low potential for protected species. This is considering the Extended Phase 1 Habitat Survey, the bat surveys and emergence surveys, and reptile surveys. Conditions are recommended relating to the clearance of the site taking place outside of the bird breeding season (March-August inclusive), the controlled eradication of Japanese Knotweed, and the submission and approval of a Landscape and Ecological Management Plan

Natural England considers that the proposal is unlikely to affect any statutory protected sites or landscapes.

Responses to Publicity

A single letter of objection has been received, noting that it is unclear whether the listed showroom remains in the same ownership as the proposal site. If it is, then it is advanced this proposal should include measures to safeguard the listed building and it is not acceptable that the listed building simply be avoided and side-stepped, especially given its status as a listed building as risk and of such cultural significance to South Derbyshire.

Councillor Taylor notes the site is surrounded on three sides by industry, and on the fourth by a major road that experiences consistent traffic congestion. Bearing in mind the previous planning history and planning appeal dismissal, this location is not suitable for the introduction of residents who would experience the day and night activities of the adjacent sites and the noise attributed to them. It is considered the findings of the previous noise report on the refused appeal are still relevant, and the noise levels have increased since a scaffolding business has started up. The application relies on an acoustic fence. The existing road is also heavily congested and this development would contribute to this congestion. The previous refusal on highway safety grounds and the danger due to visibility of approaching traffic has not been removed and this constitutes unacceptable development. Should this application be determined normal health, education, and recreation 106 monies should apply, and a contribution to traffic relief on the Woodville link road should be made.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: 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), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable

Transport), INF6 (Community Facilities), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation)

- 1998 Local Plan (saved policies): EV13 (Listed or Other Buildings of Architectural or Historic Importance) and EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE11 (Heritage) and INF12 (Provision of Education Facilities)

National Guidance

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

Local Guidance

- Housing Design & Layout SPG 2004
- Better Design for South Derbyshire 2010
- Section 106 – A Guide for Developers
- Strategic Housing Marketing Assessment (SHMA)

Planning Considerations

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

- The principle of development;
- Viability;
- Design, heritage and impact on character of the area; and
- Noise and residential amenity.

Planning Assessment

Principle of Development

The application site is located within the Swadlincote urban area and the re-development of the site would facilitate the re-use of a derelict brownfield site, the site having been rendered without a use following the closure of Bretby Art Pottery a number of years ago. As the site is previously developed land, the principle draws support from policies H1 and S2 which reflect the presumption in favour of and deliver sustainable development. Vacant brownfield sites within the urban area and within settlement boundaries are considered to be the most appropriate locations to support higher density developments to ensure the efficient use of land in the most sustainable locations, in accordance with policy H20.

As set out above the application proposes the development of the site for 100% affordable dwellings the occupancy of which would be controlled by Trent & Dove Housing, assisting with policy H21. Whilst the proposal does not strictly adhere to the

housing mix identified within the SHMA, the opportunity to provide one bedroom units is limited within the District and, taking in to account the sustainable nature of the sites location; it is considered appropriate to allow an increased number of smaller dwellings at a higher density which will allow for larger housing to be provided at other locations where they better reflect the local character. Whilst it is accepted that the concentration of affordable housing in one development would promote the provision of mixed communities (i.e. a mix of affordable and market housing), the scheme has set out to establish a high level of urban design with the key aim of enhancing the built environment and providing a sense of place. Hence this is not seen as a significant shortcoming of the development.

Viability

Policy INF1 expects that the needs of occupiers of developments are appropriately supported and relevant impacts mitigated, in the interests of sustainability. However the policy recognises that the viability of developments is a material and mitigating factor when determining the extent and priority of developer contributions, as also acknowledged within policies H20 and H21. The issue of viability is also outlined in the NPPF with the aim of ensuring that developments are deliverable taking into account the costs of development, the required mitigation and ensuring competitive returns for willing land owners and developers.

The submitted viability assessment has been interrogated and demonstrates that the scheme would not be viable if infrastructure contributions were commanded. In this case, education contributions (as outlined above) are requested and considered to be CIL compliant. With no on-site open space, sports or built facilities provision, contributions towards identified projects in the locality would also be justified. There is also some scope to argue a contribution towards the Swadlincote Regeneration Route (SRR) given the additional pressure likely to be generated on the Clock Island, but the degree of impact arising (see below) makes this questionable. Some of these projects might also be better funded through larger contributions from sites yet to be determined. The financial contribution requested by the Conservation Officer towards the upkeep of the Pottery building is also desirable – not essential, such that CIL compliance may be questionable.

The above potential for contributions is however considered to be overridden by the significant benefits this scheme can deliver in respect of affordable housing. Members will be aware that a number of strategic sites around Swadlincote are unable to deliver the policy requirement of 30% affordable housing, and sites such as these and the Rose Hill works nearby are necessary to make up ‘the balance’. This carries significant weight in favour of the proposal. Countering this is the fact that social and environmental needs and impacts might not be adequately served, but it is not considered this point alone makes the development unsustainable in principle. It is therefore considered appropriate to forego any contributions in the interest of ensuring that the proposed affordable comes forward.

Design, heritage and Impact on character of the area

The site is located in an area of mixed architectural styles, some good quality and some in need of improvement. The aim of local and national design policies and

guidance is to improve and raise the standard of design rather than simply copying the built form and design existing in an area. Policy BNE1 requires new development to enhance community safety by providing safe areas with good natural surveillance, to provide attractive legible streets, create a sense of place, create a locally inspired character which is visually attractive and respectful of local townscape and heritage, and the creation of continuity and enclosure of the street scene amongst other things. In addition policy BNE2 and saved policy EV13 expects new developments to protect, conserve and enhance heritage assets and their setting, with particular attention given to the industrial heritage of Swadlincote.

As noted above the site is located close to the Grade II listed Bretby Art Pottery building, which is an important part of the industrial heritage of Swadlincote. The site forms an important part of the setting and as such the Council has a duty under the Act to have special regard to this – new development that could affect or harm its setting and significance needs to be carefully considered.

The site formed part of the curtilage of the works associated with the Pottery building, which was formally a showroom for the works on this site. As the only remaining asset, the land formerly associated with it needs to ensure that the long-term future the building is secured. Following the purchase of the site the applicant has separated the site from the listed building and gifted it to the Heritage Trust, a charitable trust formed for the purpose of rescuing buildings at risk throughout the UK and finding sustainable new uses for these buildings once they are repaired. The gift also included payment of the Heritage Trusts legal fees in securing the transfer of the building. As detailed above the financial viability of the scheme is at tipping point, so it is unfortunate that there are insufficient funds for any financial contributions to be secured towards the restoration of the building. Nonetheless the fact that the building is now in the control of a charitable trust opens up revenue streams to assist with its restoration, whereas previously these might not have been available.

The proposal includes physical works that would significantly improve the setting of the building and its curtilage including; the provision of a new boundary wall to the southern and eastern boundaries of the building; the provision of good quality blue brick clay pavements to the site's entrance; and the reconstruction of the boundary wall to Swadlincote Road. This coupled with the fact that the building has been gifted to the Heritage Trust, equate to a significant level of financial commitment towards safeguarding the future of the building and its setting. Hence whilst there is harm to the fabric of the listed asset (loss of part of the boundary wall) and to its setting; this is considered to be less than substantial and should be weighed in the planning balance.

The design and layout of the scheme has been developed through extensive pre-application and post-submission discussions, with the sensitive setting of the site in mind and the design ethos of Building for Life carried through to the site layout and design. This has included ensuring that the dwellings are sited to respect and improve the main vista of the Pottery building. The dwellings have been sited along a similar line as the existing single storey office building to the east of the site which, coupled with the reduction in height of the existing boundary wall, successfully opens up the view of the listed building when approaching the site from the east. This

deliberate siting is considered to succeed in enhancing the setting of the Pottery building and increases its prominence and importance.

In terms of the layout of the site, the dwellings fronting Swadlincote Road is comprised of two blocks of dwellings linked with a car port in order to provide an attractive level of enclosure to the street scene of the site frontage reflective of the traditional Victorian terraced dwellings opposite. The layout of the southern part of the site is centred around the creation of a public square visible from the site access, with dwellings sited to enclose this space and create a sense of place and arrival at the heart of the site. This layout provides a terrace of three dwellings including a feature gable to terminate the vista in to the site from the site access. The two small cul-de-sacs accessed from this central square are well designed to provide defined street frontages appropriately ensuring that the public realm is overlooked by properties, creating active frontages. The layout of the development provides private amenity spaces to the rear of dwellings of two bedrooms or larger, and enhances the amount of space within the site. Two small areas of green open space are proposed, one to the site frontage and the other within the central square, which add to the proposed front gardens to help create a well landscaped development.

The dwellings themselves are of a contemporary design but with traditional proportions such as the overall mass, roof design and pitches which are reflective of the area. The buildings are proposed in a mix of brick and render, which helps to create a varied frontage to the development and provides interests creating a quality and contemporary built form with an aim of providing a clean and sharp built envelope. The use of appropriate and good quality materials is an important part of ensuring that the design ethos succeeds on the site, and as such the proposed materials and detailing should be secured by condition to ensure that that an appropriate approach is undertaken which provides a link to the local vernacular to reinforce and enhance the character of the area. The use of blue brick clay pavements for the pedestrian footways in to the site, which reflects the historic building and helps to further improve its setting, as would the new brick wall to the boundary. Overall, Building for Life principles are followed in creating affordable, functional and sustainable homes and a positive and welcoming built environment, in accordance with policy BNE1.

Highway Safety

Vehicular and pedestrian access is proposed from Swadlincote Road adjacent to the Pottery building where the local speed limit is 30mph. The expected traffic generated by the proposed development has been predicted using the TRICS database, which compares the site against a number of similar development sites. This predicts the total AM and PM peak movements, for which this development would result in 16 additional two-way vehicular trips in the AM peak period and 15 in the PM peak period. This level of traffic increase is considered to have a minimal impact on the surrounding network, particularly given differing destinations for drivers; and certainly not result in a significant adverse impact on the local highway network. This further supports the stance that a contribution to the SRR is not warranted.

The application demonstrates that 2.4m x 43m visibility splays can be achieved from the site entrance in both directions, and as such complies with the requirements of

Manual for Streets. Pedestrian access is provided either side of the vehicular access and extends to the central square which provides for a shared space, which is considered appropriate for the scale of the development proposed. The central square provides an adequate turning head for waste and service vehicles to manoeuvre within the site. It is noted that the site access and internal roads are to remain unadopted.

Generally by virtue of the site location within the urban area of Swadlincote the site is considered to be a sustainable and accessible location, with services, public transport, education and employment areas within easy walking distance. In terms of parking provision, each of the 17 two-bed-or-more dwellings are provided with two dedicated spaces, with the 10 remaining one-bed dwellings provided with a mix of two spaces and one space plus visitor spaces giving a total of 19 spaces. This would provide a sufficient level of parking in convenient places to ensure that the dedicated spaces are used appropriately. Given the foregoing, and lack of objection from the County Highway Authority, the proposal is considered to accord with policy INF2 and provisions of the NPPF.

Noise and residential amenity

Members will note from the previously refused application in 2006, and the subsequently dismissed appeal, that noise from the surrounding land uses has long been a concern; and that the protection of the amenity of any future occupiers of the land is an important consideration in determining the acceptability of the residential development of the site. Nonetheless that decision was made in the context of fewer technical solutions to mitigate noise transfer and in a slightly different planning policy context. Policies SD1 and BNE1 set out support for new developments which are not unduly effected by neighbouring land uses. As the site is mostly surrounded by existing commercial uses there are not considered to be any significant impacts on any of the surrounding uses in terms of privacy or impacts on amenity. Proposed dwellings are compliant with separation standards to any existing dwellings opposite the site. The main impacts would be on the prospective future occupiers of the proposed dwellings and the existing commercial operations surrounding the site.

As detailed above, the site is affected by noise from 4 sources – local traffic on Swadlincote Road, the Safe Scaffolding site to the west, Ward Recycling to the east, and Jeffrey's Haulage to the south of the site. Each of these sources has been the subject of detailed monitoring and measurement following requests from the Environmental Health Officer due to the previous concerns and the site history.

Following the monitoring, detailed specifications have been developed setting out the level of insulation and noise attenuation required within each of the dwellings dependent on the closest noise source. Following close scrutiny of the assessment and the recommendations provided for glazing and mechanical ventilation, it is considered that such solutions are feasible and, subject to the recommendations contained within the assessment being complied with, including specific glazing and ventilation specifications to all bedrooms and habitable rooms which face Swadlincote Road; the impacts on occupiers would be acceptable. In addition, the proposals include the provision of 2.6m high acoustic fencing to the eastern, southern and western boundaries of the site that the development of the site for

residential purposes is acceptable and would secure an acceptable noise environment for new residents.

In terms of external amenity space, a mixture of garden sizes are proposed with each of the maisonettes provided with sufficient space to facilitate bin storage and the drying of washing. Overall the levels proposed are considered to provide sufficient space to allow for appropriate outdoor amenity.

Other Matters

Drainage, coal mining legacy and drainage matters can be addressed by way of conditions, in accordance with policies SD2, SD3 and SD4. With the site having a low potential for protected species and only a few small self-set trees being removed to facilitate the development (whilst new planting can mitigate for this loss), it is considered biodiversity is both adequately safeguarded and enhanced in accordance with policy BNE3. Archaeological matters are discussed above, and can be addressed by condition, in line with policy BNE2 and saved policy ENV14.

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.

Conclusion

The proposal facilitates the re-development of a currently vacant brownfield site on a sustainable location, recognising the preference to re-use land of lower environmental value and facilitate regeneration within settlements. The development is considered to meet a recognised need for affordable housing within the District and significant weight is afforded to the 100% provision offered here. The siting and design of the proposed buildings sit appropriately within the setting of the listed building, assisting in improving and enhancing the character and appearance of the area and the setting of the Pottery building. All technical matters in respect of drainage, contamination, highways and so forth are satisfied, subject to conditions.

The less-than-substantial harm to the heritage asset weighs against the proposal to a degree, as does the inability for the proposal to meet the social needs of its residents and mitigate for some impacts off-site; but the public benefits arising from the proposal are considered to outweigh the harm identified and overall, the harm arising from the development is not considered to significantly and demonstrably outweigh the social, economic and environmental benefits brought about.

Recommendation

GRANT planning 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 the following Drawing numbers;

2014_351_P03E Proposed Site Plan
2014_351_P04.1 & 2014_351_P04.2 Plots 5/6/22/23
2014_0351_P05.1 & 2014_351_P05.2 Plots 1-4
2014_0351_P06.1a & 2014_351_P06.2a Plots 7-10 & 24-27
2014_0351_P07.1 & 2014_0351_P07.2 Plots 11-14
2014_0351_P08.1 & 2014_0351_P08.2 Plots 15-17
2014_0351_P09.1 & 2014_0351_P09.2 Plots 18 & 19
2014_0351_P10.1a & 2014_0351_P10.2 Plots 20 & 21
2014_0351_D04 Typical Window Detail
2014_0351_D07 Eaves Detail

unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. The hereby approved dwellings shall be constructed in Marley Ashmore tiles, Carlton Minster Wolds Blend bricks and white render as detailed on the approved drawings.

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

4. All electricity and gas meter cupboards shall be located inside the hereby approved dwellings unless otherwise agreed in writing by the Local Planning Authority.

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

5. Gutters, downpipes, fascias and soffits shall have a dark grey finish (RAL7016).

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling(s) hereby permitted shall not be altered, enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

7. No removal of buildings, hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site

during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

Reason: In the interests of safeguarding against harm to protected species.

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

Reason: To enable items of archaeological interest to be recorded and/or preserved where possible before the development of the site commences as any development could result in irrevocable loss of archaeological features on the site.

9. No development shall take place on site until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:
- i. no less than 100% of housing shall be Affordable Housing.
 - ii. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
 - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
 - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings

allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

Reason: To ensure the provision of affordable housing within the development.

10. No development shall take place on the site until a detailed design 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 (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted.

11. No development shall take place on the site until details of a scheme for the disposal of 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 pollution control and to ensure that a suitable drainage scheme is planned in to the construction of the development.

12. No development shall take place on the site until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- a. into the ground (infiltration);
- b. to a surface water body;
- c. to a surface water sewer, highway drain, or another drainage system;
- d. to a combined sewer.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options and to ensure that a suitable drainage scheme is planned in to the construction of the development.

13. No development shall take place until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenity of the area, the adjacent Grade II listed building, and the locality generally and ensure that the level of the site are

known and secured before any groundworks commence that could compromise the site levels.

14. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide 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, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

15. a) The development shall not be commenced until the scheme to identify and control any contamination of land, or pollution of controlled waters, defined in GRM desk study and intrusive ground investigation (GRM Ref: P6657-SA1, 7th August 2014) has been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- b) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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 any construction or ground works commencing on the site.

16. The development shall not be commenced until the recommendations contained within the GRM Report (Ref P6657-SA1), in particular the following works shall be undertaken;
- a) The submission of a scheme of intrusive site investigations for approval;
 - b) The undertaking of that scheme of intrusive site investigations;
 - c) The submission of a report of findings arising from the intrusive site investigations;
 - d) The submission of a scheme of remedial works for approval; and
 - e) The implementation of those remedial works.

Intrusive site investigation works and any resultant remedial works identified by the site investigation shall be completed in accordance with the approved recommendations.

Reason: To protect the health of the public and the environment from hazards arising from the coal mining legacy of the site which might be brought to light by any construction or ground works commencing on the site.

17. No work shall take place on the site until a new vehicular and pedestrian access has been formed to Swadlincote Road in accordance with drawing number 2014_351_P03a, and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the access for a distance of 43m in each direction measured along the nearside carriageway edge, the land in advance of the visibility sightlines shall be retained throughout the life of the development free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety and to ensure that safe access is provided to the site for construction vehicles.

18. Prior to the construction of any dwellings on site 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 before any dwellings on the site are occupied and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Obtrusive Light" (2005).

Reason: To preserve amenity and in the interests of the setting of the adjacent Grade II listed building and to ensure an appropriate lighting scheme is planned in to the development.

19. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; prior to the commencement of any construction works on site detailed plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and to ensure that appropriate boundary treatments are planned in to the site development..

20. Prior to the construction of any dwellings on site a scheme of hard and soft landscaping for the site, which shall include all trees, shrubs and hedgerows to be planted and a detailed specification of the ground surfacing materials to all public areas of the site (including dwelling frontages) shall be submitted to and approved by the Local Planning Authority. The hard landscaping scheme shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

21. Prior to the construction of any dwellings on site a landscape and ecological management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority. The approved plan shall be implemented prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

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

22. a) The development shall be completed in accordance with the recommendations contained within Section 8 of the submitted Noise Assessment (June 2016).
b) Before the development is occupied the completed scheme shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority

Reason: To protect the amenities of the prospective occupiers of the hereby approved dwellings.

23. Notwithstanding any details submitted before any construction works commence details of the type, size and position of the proposed canopies shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with approved details.

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

24. Prior to the first occupation of any of the dwellings on site the areas shown on the approved drawing number 2014_351_P03 E for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

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

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

26. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant 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 IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

27. Throughout the period of development 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.

Reason: In the interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.
- c. 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 http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp
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 pollution control officer (contaminated land) in the environmental health department:
pollution.control@south-derbys.gov.uk.
- d. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- e. 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.

- f. 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.
- g. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed.
- h. The following clause shall be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought: "The leasee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that the same shall at all times remain private up to the point where the same abuts the boundary of Swadlincote Road."
- i. The applicant is advised to note that the site will need a control programme to eradicate and control the Japanese Knotweed (listed on Schedule 9 of the Wildlife & Countryside Act 1981), and is advised that it is an offence to cause this to spread in the wild.

Item **1.6**

Reg. No. **9/2016/0344/L**

Applicant:
Mr Mick Goodwin
98 Main Street
Linton
Swadlincote
DE12 6QA

Agent:
Mr Stephen Eaton
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton on Trent
Staffordshire
DE14 1NG

Proposal: **LISTED BUILDING CONSENT FOR THE DEMOLITION
AND REBUILDING OF THE EXISTING BOUNDARY
WALL FRONTING THE SITE AT THE FORMER BRETBY
POTTERY SITE SWADLINCOTE ROAD WOODVILLE
SWADLINCOTE**

Ward: **Woodville**

Valid Date: **11/04/2016**

This case is submitted in pursuit of the demolition and reconstruction of the existing boundary wall. The merits of the case are examined in the companion application for the redevelopment of the site under 9/2016/0322 above.

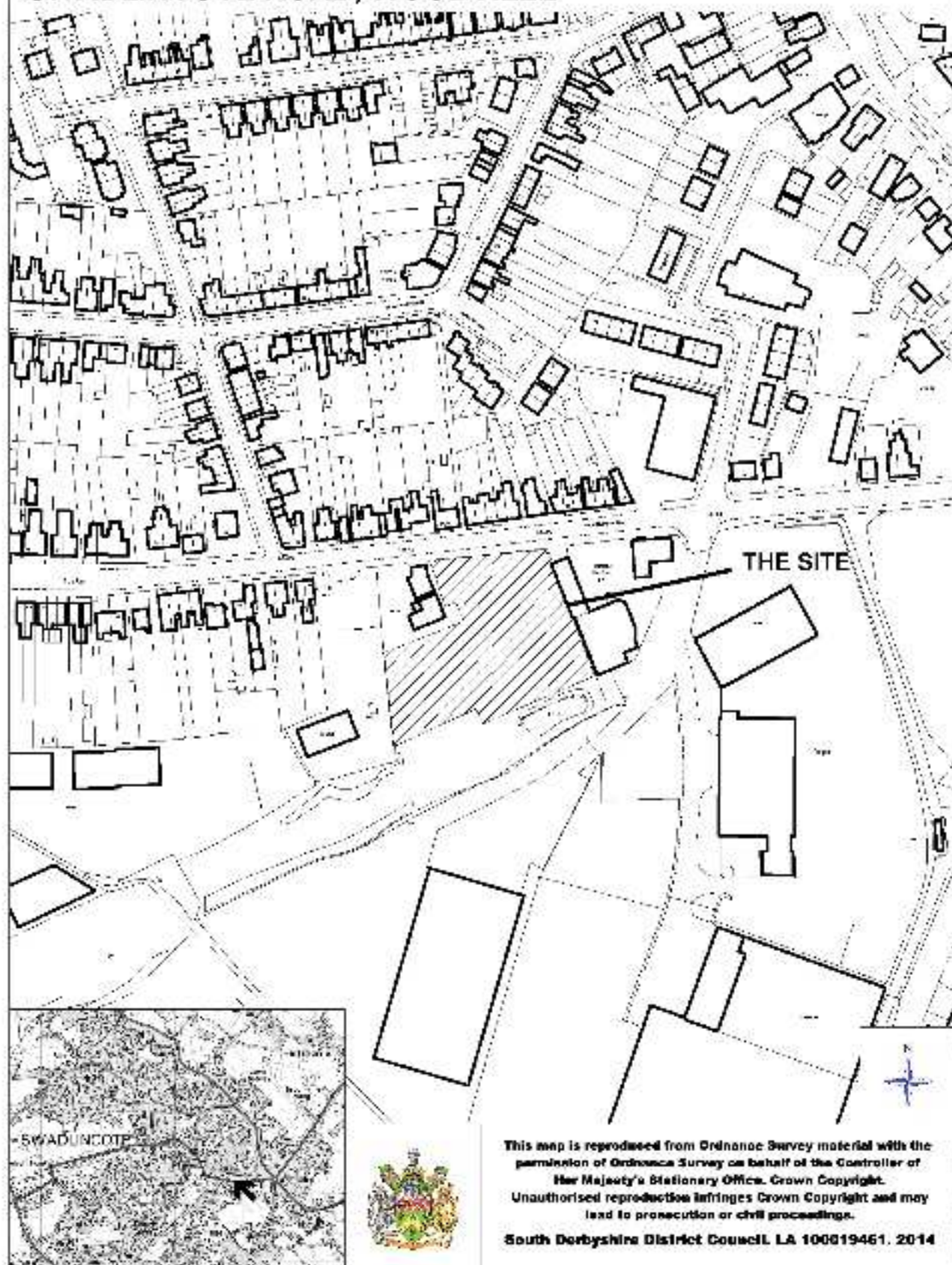
Recommendation

GRANT listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. No demolition of the wall fronting Swadlincote Road shall occur until a contract for the implementation and construction of the development approved under planning permission ref: 9/2016/0322 has been secured. If for any reason that development does not commence within 6 months of the demolition of the existing wall, within 1 month of that date a scheme for the restoration of this wall shall be submitted to and approved in writing by the Local Planning Authority. The boundary shall then be restored in accordance with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.

**9/2016/0344 - FORMER BRETBY POTTERY SIDE,
SWADLINCOTE ROAD, WOODVILLE**



Reason: To ensure all reasonable steps have been taken to ensure the new development will proceed after the loss of a heritage asset has occurred, in line with paragraph 136 of the NPPF.

3. No works to demolish the boundary wall to Swadlincote Road shall commence until plans and drawings and full details of the height, types and materials of boundary walls to Swadlincote Road and the Bretby Art Pottery building, either as retained or constructed as new, and of the associated pedestrian gate to the curtilage of the Bretby Art Pottery building have been submitted to and approved in writing by the Local Planning Authority. Such drawings shall be based on the layout plan hereby approved and be supplemented with elevational plans to show the typical heights and materials of such fences and walls, accounting for changes in levels where relevant. The boundary wall to Swadlincote Road shall be (re)constructed and capped utilising the existing bricks and copings as far as is practicable, with supplementary bricks and copings as required in accordance with the approved materials. All other walls and the associated pedestrian gate shall be completed in accordance with the approved details before any of the dwellings on site are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, the fabric of the listed structure and the setting of the Grade II listed building.

Informatives:

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

Item **1.7**

Reg. No. **9/2016/0399/FM**

Applicant:
Mr Steve Wright
66 Egginton Road
Hilton
DERBY
DE65 5FG

Agent:
Mr Steve Bown
David Bown Building Surveyors
7 Ash View Close
Etwall
Derbyshire
DE65 6JY

Proposal: **THE ERECTION OF A SINGLE DWELLING AT 66**
 EGGINTON ROAD HILTON DERBY

Ward: **Hilton**

Valid Date: **26/04/2016**

Reason for committee determination

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

Site Description

The application site is a large front garden which is located to the north of no 66 Egginton Road, a two storey dwelling set back approximately 30 metres from the road and flanked by properties to the east and west. No 64 sits forward of no 66 but no 68 continues the building line set by no 66 and is slightly further from the highway, being angled away from the highway and benefits from a longer front garden.

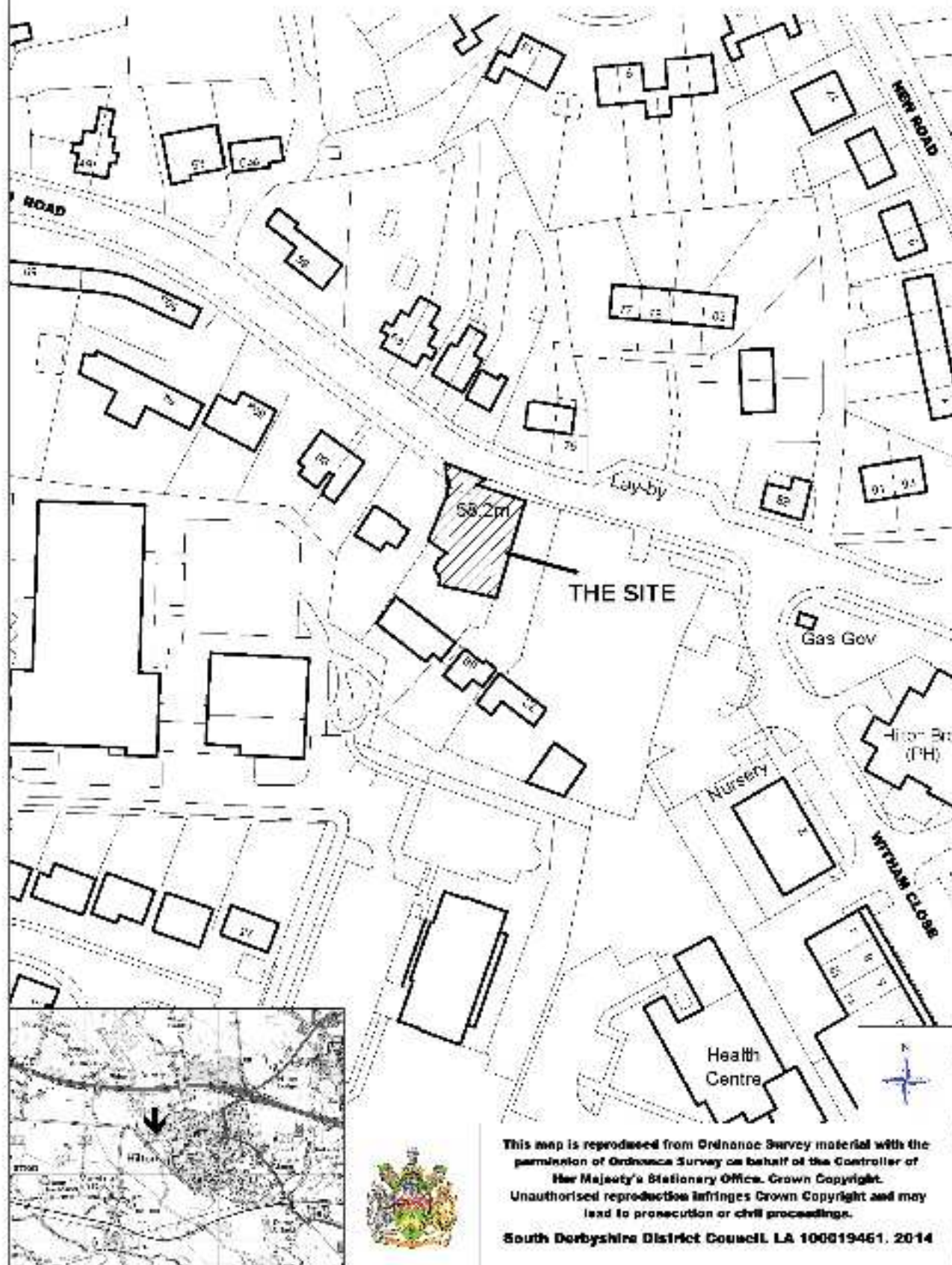
Proposal

The application is submitted in full with all matters to be determined. The application proposes a one and a half storey dwelling with dormer windows facing west and roof lights facing east. The proposal includes an attached single storey garage and the whole building is orientated at 90 degrees to both the road and the existing dwelling. Outside, the proposal benefits from two parking spaces in addition to the attached garage and a south facing side garden.

Planning History

9/2006/1283 The erection of a dwelling (amended scheme 9/2006/0288/F) -
 Approved 07-03-07

9/2016/0399-66 EGGINTON ROAD, HILTON, DE65 5FG



9/2010/0070 Extension to time limit of planning permission 9/2006/1283 for the erection of a dwelling – Approved 3-04-10

9/2013/0081 Extension to time limit of planning permission 9/2010/0070 for the erection of a dwelling – Approved 03-04-13

9/2014/0257 The erection of a dwelling within front garden – Refused 15-05-14

Responses to Consultations

Derbyshire County Highways – The proposal differs little in highway terms to application 9/2014/0257 and previous applications therefore the same highway comments apply. This states that the application is acceptable subject to conditions.

Contaminated Land Officer – No objection to the proposal.

Severn Trent Water – No objection to the proposal subject to the inclusion of an informative relating to statutory sewer records.

Responses to Publicity

No response has been received from Hilton Parish Council at the time of writing this report.

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

- a) The three cottages, 66, 68 and 72 are unusual, historic and unique;
- b) Privacy of neighbours will be adversely affected;
- c) Proximity of such a tall building close to existing properties will be horrible to live with;
- d) Noise both during construction and once occupied will be unreasonable;
- e) Additional traffic movements on an already busy road unacceptable;
- f) Proposal will block light from no 68 Eggington Rd;
- g) The hedge is tall at the moment and maintained by the owner of 68. However, if cut low the new dwelling would be in full view and look horrendous;
- h) At the proposed location the new dwelling will stick out like a sore thumb;
- i) Another family added to the cars, cyclists and pedestrians will be ridiculous;
- j) If another family move in the extra noise children, dogs and people coming and going will be a nightmare;
- k) The open aspect of neighbouring property will be gone with a big high wall and large house too close;
- l) Location of the property right on a bend in the road and therefore unsafe for existing residents joining the highway.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policies S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1

(Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)

- 1998 Local Plan (saved policies): Housing Policy 5 (H5) and Environment Policy 9 (EV9)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: Policy SDT1 (Settlement Boundaries and Development)

National Guidance

- National Planning Policy Framework (NPPF) 14, 17, 32, 56, 58, 196, 197, 203, 206.
- Planning Practice Guidance (PPG) ID 26 Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of Development
- Scale and Design
- Residential Amenity
- Highway Safety

Planning Assessment

Principle of Development

Although the most recent application on this site was refused, a previous full permission for a house of similar scale and layout had been granted and renewed as recently as 2013. In addition, the most recent application was not refused on principle but design and amenity grounds only. The fact that a similar scheme for the site to that proposed was relatively recently approved and has only recently lapsed is a material consideration in this case which carries substantial weight. The test therefore is to examine whether there has been any material change in circumstances (e.g. policy considerations) that would suggest an alternative outcome this time and whether the design, in terms of appearance and effects on neighbour amenity, are acceptable.

The location of the site is within the confines of the settlement of Hilton where new development is considered acceptable in principle. The settlement has a number of services and facilities, including shops, school and a regular bus service making this

a sustainable site in general terms consistent with policy H1 (settlement hierarchy) and saved policy H5. The proposal is also consistent with National Planning Policy Framework paragraph 14, being a sustainable location. This states that, at the heart of the NPPF, is the presumption in favour of sustainable development and that development proposals that accord with the development plan should be approved without delay.

Scale and Design

The character of properties in the area are a mix of traditional and more modern dwellings and the proposed dwelling would be located between both a more modern property (64 Egginton Rd) and the more traditional cottage style dwellings of 66 to 72 Egginton Road. An example of a property similar in design to that proposed can be found along Egginton Rd to the west and the design is therefore not considered to be out of character. The proposed dwelling is smaller in scale and form than both 66 and 64 Egginton Road and, being only a one and a half storey dwelling with first floor accommodation in the roof space, has less impact on the street scene than, for instance, 64 Egginton Rd which, although set back from the highway, faces forward and therefore appears larger than the proposed dwelling. This is also due to the fact that the orientation of the proposed dwelling is at 90 degrees to the road and the front elevation of the proposed dwelling facing west. This may make the proposed dwelling more prominent from the west, being closer to the highway but is not considered to be out of character with the wider area.

Residential Amenity

Policy BNE1 sets out design principles. These principles are complemented by the Council's adopted Supplementary Planning Guidance "Housing Design and Layout" which seeks to achieve a reasonable level of amenity for occupants of existing and new dwellings and states that new dwellings will be considered in terms of their effect on existing dwellings and on their merits. In addition, one of the core principles of the NPPF as set out in para 17, is to secure a good standard of amenity for all existing and future occupants of land and buildings. The submitted plans show that the proposed dwelling has been designed to provide sufficient outdoor amenity space for new residents and limit any overlooking both of the new dwelling and the existing neighbours.

The rear of the property has no openings at ground or first floor level on the eastern elevation apart from a rear door and small window at ground floor level providing light to the WC. Roof lights provide lighting to the first floor on the eastern elevation in place of standard windows to protect the privacy of residents at 68 and 70 Egginton Rd. Discussion with the agent led to the plans being amended to ensure the rooflights are at a height shown on plan as a minimum of 1800mm to ensure that the occupants could not directly overlook neighbours. In addition, on the southern elevation double doors to the garden were replaced with a smaller window at ground floor level to be a secondary window due to the proximity to no 66. These alterations to the initial design are considered acceptable to meet the constraints of the policy and the SPG.

Highway Safety

In terms of highway safety, it is noted that Egginton Road is a classified road. Access is to be shared with 66 Egginton Rd and sufficient space has been provided for a minimum of 2 off-street car parking spaces within the curtilage of the proposed dwelling in addition to the attached single garage. The Highway Authority refer to their previous comments, stating they have no objections in principle, subject to the inclusion of conditions relating to visibility and off-street parking.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing Nos. 08/04/16/1 Rev A, 08/04/16/2 Rev B, 08/04/16/3 Rev A & 08/04/16/4; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Prior to being incorporated in the development precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls, boundary walls, hard surfaces and roof of the building shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale details to a minimum scale of 1:10 of eaves, verges and external joinery, including horizontal and vertical sections, precise configuration of opening lights and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in the building. The items shall be constructed in accordance with the approved details.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. Gutters and downpipes shall have a black finish.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling hereby permitted shall not be altered, enlarged or extended, and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties.

7. The development shall not be occupied and no development affecting existing vegetation shall be undertaken until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

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

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

9. Prior to the first occupation of the dwelling, space shall be provided within the site curtilage for the parking of residents' and visitors' vehicles associated with both the new and existing dwelling, laid out in accordance with Drawing No 08/04/16/4 and thereafter retained throughout the life of the development free of any impediment to its designated use.

Reason: In the interests of highway safety.

10. Prior to the first occupation of the dwelling, the access onto Egginton Road shall be modified in accordance with Drawing No. 08/04/16/4 and the dropped vehicular crossover widened accordingly.

Reason: In the interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting

amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

- b. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp , email ETENetmanadmin@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- c. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Item **1.8**

Reg. No. **9/2016/0504/TP**

Applicant:
Mr Martin Buckley
SDDC Housing Department
Civic Offices
Clvic Way
Swadlincote
DE11 0AH

Agent:
Mr Martin Buckley
SDDC Housing Department
Civic Offices
Clvic Way
Swadlincote
DE11 0AH

Proposal: **THE CROWN CLEAN OF A PINE TREE COVERED BY**
SOUTH DERBYSHIRE DISTRICT COUNCIL TREE
PRESERVATION ORDER NUMBER 77 AT LAND
BETWEEN 20 AND 22 CHAPEL STREET TICKNALL
DERBY

Ward: **Repton**

Valid Date: **19/05/2016**

Reason for committee determination

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

Site Description

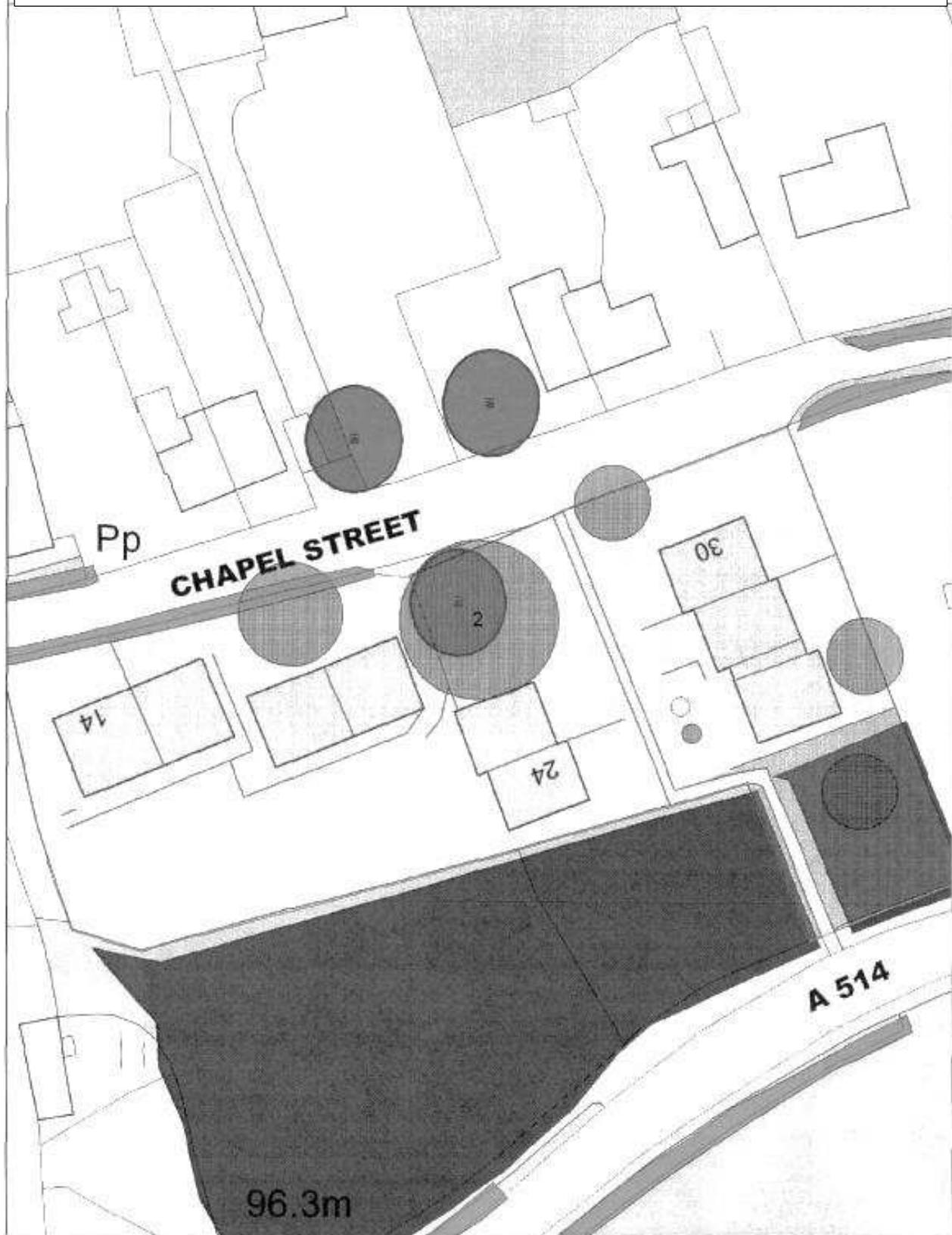
The application site is communal grass land associated with a development of authority owned bungalows that predominately house the elderly and infirm. The grassed area abuts Chapel Street and is of an open nature.

Proposal

The application proposes pruning and other general tree management works to a Pine tree that is protected under TPO 77. The tree is located in the communal open grassed area to the authority owned bungalows and is in close proximity to the edge of the site that bounds with Chapel Street which is a vehicular access lane with public access.

Applicant's supporting information

The tree has minor die-back to the crown caused by a fungal infection, excessive end weight to some of the limbs, interlocking branches, some weak unions but no other significant defects.



Map produced by South Derbyshire District Council Crown Copyright All rights reserved LA100019461.2011.

Planning History

None.

Responses to Consultations

The tree officer is of the opinion that all works proposed are necessary and suitable for this tree.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: BNE3
- 1998 Local Plan (saved policies): EV9

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8

National Guidance

- National Planning Policy Framework (NPPF): paragraphs 17 and 118.

Planning Considerations

The main issue central to the determination of this application is whether the works proposed are justified.

Planning Assessment

The works proposed are considered to be in the interests of safety and sound tree management, being the minimum necessary to secure both of these interests. Long term amenity and biodiversity interests would be achieved. Accordingly the works are considered acceptable.

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local

planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

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

Reason: To safeguard the health of the tree(s).

Item **1.9**

Reg. No. **9/2016/0559/FH**

Applicant:
Mr Adrian Dawson
The Hill Lodge
Deep Dale Lane
Barrow On Trent
Derby
DE73 7NH

Agent:
Christopher Thorp
Chris Thorp Planning Ltd
20A Hazelwood Road
Duffield
Belper
DE56 4DQ

Proposal: **PARTIAL DEMOLITION, REDUCTION IN HEIGHT AND
RETENTION OF THE REMAINING STRUCTURE OF AN
EXISTING OUTBUILDING FOR INCIDENTAL USE AT
THE HILL LODGE DEEP DALE LANE BARROW ON
TRENT DERBY**

Ward: **Aston**

Valid Date: **01/06/2016**

Reason for committee determination

The application is reported to Committee at the request of Councillor Watson because local concern has been raised about a particular issue and unusual site circumstances should be considered by the Committee.

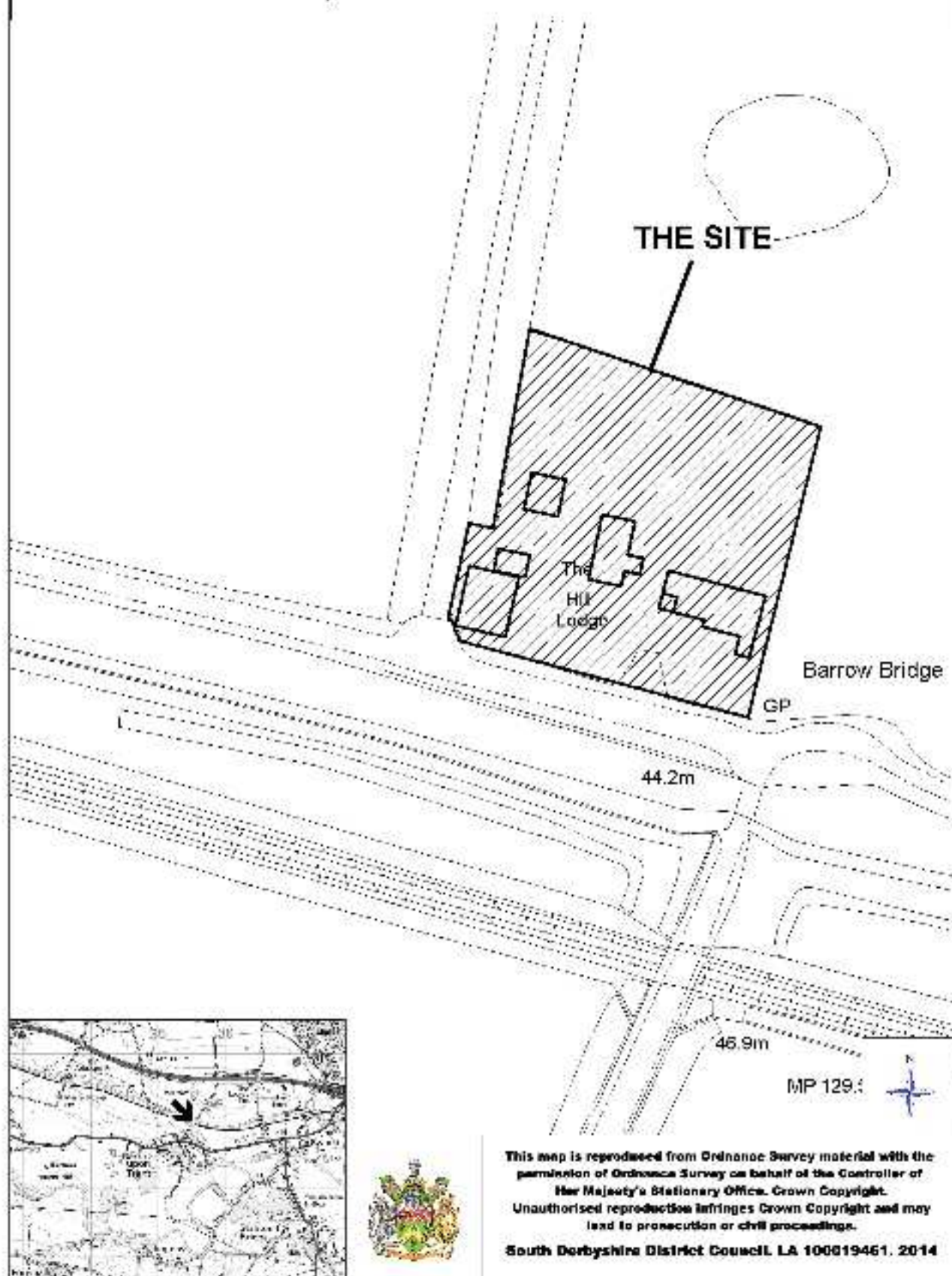
Site Description

The Hill Lodge is situated in open countryside about 500m to the north of the village of Barrow on Trent. The site is located close to the bridge over the Trent and Mersey Canal, on Deep Dale Lane. The site contains the extended host dwelling, two detached outbuildings occupied as ancillary accommodation by members of the applicant's family, a large detached garage that has also undergone conversion, a conservatory attached to the garage, a building housing filtration equipment for a fish pond, a garage for a motor car, and the building subject of this application.

A new access direct to Deep Dale Lane is now in use. There is also access via the private drive to The Hill. The Deep Dale Lane boundary consists of conventional timber screen fencing to the west and a 3m high timber sleeper wall to the east of the access. The gates to the access are set back some 8m from the highway carriageway edge.

The subject building lies at the eastern edge of the site and has an overall length of 21.5 metres along its longest elevations at present. In part the building has a domestic character, with rooms fitted for residential occupation. The remainder of

9/2016/0559-THE HILL LODGE, DEEPDALE LANE,
BARROW ON TRENT, DE73 7NH.



the building is unfinished and is in use for the storage of the applicant's motorcycles and as a workshop, albeit within a configuration of relatively small rooms.

Proposal

The application relates to an existing building, previously subject to application 9/2013/0572 below, comprising a number of components:

- demolition of that part of the building previously fitted out for residential accommodation, resulting in a reduction in length by some 10m;
- reduction in height of the height of the roof, in order to achieve a height of 3.95m, involving removal of ridge tiles and replacement with an alternative means of capping (e.g. lead sheet);
- demolition of internal walls to produce larger areas inside the building for storage/workshop purposes; and
- replacement of French doors with garage door.

Applicant's supporting information

Reference is made to the comments and conclusions of appeals affecting the existing building. In particular, in the most recent appeal decision, the inspector commented that reduction in the height of the roof ridge to permitted development limits would have a significant and beneficial effect on its impact. Furthermore the inspector commented that the unfinished part of the building was certainly capable of being a genuinely incidental use. Having regard to the appellant's need for secure areas to store and work on his motorcycles the inspector considered the erection of a replacement structure to be more than a theoretical possibility.

The application is for substantial modification to the existing building, being a practical response to the inspector's concerns, avoiding the need for senseless wholesale demolition followed by construction of new incidental building. As the inspector noted, a building is required for the applicant's collection of valuable motorcycles.

The modification involves removal of that part of the building (kitchen, bathroom, living room and bedroom) most criticised by the inspector, leaving a building incidental in size and use. The internal layout of the building has been re-designed to better facilitate its use for motorcycle storage/ workshop and general domestic storage.

The reduction in height of the building, seen as beneficial by the inspector, would be achieved by removal of the clay ridge tiles and replacement with lead grey colour composite material.

Although the inspector did not consider a lesser remedy to demolition, he did note that the enforcement regime is intended to be remedial not punitive and that it may be that no real planning purpose would be achieved if the applicant could and would re-build with something like it.

The current proposal would be subservient to the host dwelling and thus in compliance with local plan policy for extension and outbuildings to rural properties.

In summary it is considered the proposal is a response to the appeal decisions and would not result in unacceptable harm to the countryside. As such it would not conflict with local or national planning policy. Demolition would serve a punitive purpose only as compliant replacement building would inevitably be erected in its place.

Planning History

- 9/0390/1320 Stable block – approved
- 9/2002/1020 Conservatory to dwelling – approved
- 9/2002/1038 Storage shed and revised plan for stables – approved
- 9/2002/1211 Hardstanding and access – approved
- 9/2003/0267 Erection of feed store and tack shed to be attached to stable – refused on the grounds of visual impact.
- 9/2003/0480 Conservatory to dwelling and garage – approved
- 9/2003/1026 Change of use and alterations to stables for office use – refused on the grounds of traffic and the visual impact of the proposed changes
- 9/2004/0534 The installation of a balcony to the dwelling, and alterations to previously approved shed – approved
- 9/2005/0194 Animal rearing shed – refused on the grounds of visual impact
- 9/2005/0040 Garage (revised elevations) – approved
- 9/2005/0807 Change of use of stable to office and retention of hardstanding – approved
- 9/2006/0423 Animal rearing shed – refused on the grounds of visual impact
- 9/2007/0076 Extension to office – refused on policy, visual impact and sustainability grounds, and appeal ref. 2046425 dismissed
- 9/2008/0579 Change of use of paddock to garden – approved, with permitted development rights removed by condition
- 9/2008/1059 Covered structure attached to garage – approved
- 9/2010/0674 Formation of vehicular access – approved

- 9/2011/0391 Retrospective application for the installation of dormer windows in garage roof – approved
- 9/2011/0389 Retrospective application for the erection of a garden store – refused and appeal ref. 2159044 (enforcement) dismissed
- 9/2012/0644 Extension to annexe – refused
- 9/2013/0408 Carp pond – approved
- 9/2013/0572 Conversion of building to holiday lets – refused and dismissed at appeal ref. 3130893 & 3130894 (enforcement)
- 9/2014/0225 Garage (refused and dismissed on appeal) and 3m high sleeper wall to frontage (refused but allowed on appeal)
- 9/2015/0371 Gates and boundary walls - approved

A garage has recently been erected in front of the application building, under permitted development rights.

An Article 4 Direction precluding new ‘permitted development’ buildings was not confirmed by the Secretary of State.

The decision most relevant to the current application is 9/2013/0572, which relates to the existing subject building, and its associated enforcement appeals.

Responses to Consultations

None

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: Policies S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence) and BNE4 (Landscape Character and Local Distinctiveness).
- 1998 Local Plan (saved policies): Environment Policy 1 (EV1).

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: H27 (Residential Extensions and Other Householder Development) and BNE5 (Development in the Countryside).

National Guidance

National Planning Policy Framework (NPPF), in particular:

- Paras 6-10 (Achieving sustainable development)
- Paras 11-14 (The presumption in favour of sustainable development)
- Para 17 (Core principles)
- Chapter 7 (Requiring good design)
- Paras 186 & 187 (Decision-taking)
- Para 196 & 197 (Determining applications)
- Paras 203-206 (Planning conditions and obligations)
- Annex1 (Implementation)

National Planning Policy Guidance ID 26 (Design)

Planning Considerations

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

- The comments of inspectors in the appeals relating to 9/2013/0572
- Impact on the character and appearance of the countryside
- Fallback position and sustainability

Planning Assessment

The comments of inspectors in the appeals relating to 9/2013/0572

The planning appeals relating to the existing building are unequivocal in concluding that the existing building has a harmful impact. Nevertheless those appeals related to a building erected with intended residential occupation (at least in part) as the end use. That part of the building nearest to the host dwelling had already been fitted out for such occupation at the time of the enforcement appeal. The remainder was (and is) unfinished and in use for the storage of the applicant's own motorcycle collection. Although a slightly lower building for purposes incidental to the enjoyment of the dwellinghouse may well have been permitted development (thus obviating the need for a planning application), the Council and the inspectors were bound to consider the application and enforcement action solely on the facts as they were at the relevant decision times. It now falls to the Council to consider the current application, seeking permission for a smaller building of different design, on its own merits.

In the enforcement appeal the inspector rightly acknowledged that:

“...the enforcement regime is intended to be remedial not punitive, and it may be that no real planning purpose would be served by requiring the building to be demolished if it was clear that the appellants could and would simply rebuild it or something like it. In this case the appellants could, using permitted development rights, build a new structure in place of the appeal one. Moreover, given the appellants' means and apparent need for secure

areas to store and work on motorcycles and other vehicles, I consider that the erection of a replacement structure is more than a theoretical possibility.”

He went on to say

“That said, for a replacement building to be permitted development it would need to be lower and, for the reasons I have set out earlier, I consider that that would be a significant improvement in itself. Moreover, it would need to be clearly intended for genuinely incidental uses. As such it could not include primary residential facilities such as kitchens and bedrooms and it may also be prudent to avoid an overtly residential layout and domestic-style windows. It therefore seems likely that any replacement structure would not only be lower but of a less residential appearance.

“That seems especially so as the main incidental use for which a clear need has been identified is the storage and maintenance of motorcycles and other vehicles. Notwithstanding the garage that has recently been erected, a building designed for such purposes could reasonably be expected to be more subservient and look more like a garage and less like a house. In addition, having regard to the number of vehicles I saw, it is not clear that it would need to have as large a footprint as the existing structure.

“In conclusion whilst I accept that there is a real likelihood that if the appeal building is demolished a replacement will be built in its place and I also consider that, on the balance of probabilities, such a structure would be noticeably less harmful to the character and appearance of the area and is most unlikely to be any worse.”

In previous appeals at this site it has been made clear by inspectors that the need for a building ancillary to the host dwelling is primarily a matter for the applicant. In the case of the applicant's requirement for a building to house his motorcycles, this was accepted as a clear need in the inspector's comments above. As such the proposal would conform to the first requirement (necessity to a rural location) of saved policy EV1 and emerging policy BNE5.

Impact on the character and appearance of the countryside

The subsequent parts of the aforementioned policies and emerging policy H27 apply environmental criteria. In assessing the characteristics of the existing building, in the most recent appeal decisions the inspector observed that:

“...the existing screening along the site frontage, whilst by no means fully concealing the appeal building, does screen much of its lower part. Accordingly an unusually high proportion of the effect that the building has derives from its roof, especially given the complex form that it takes.” He went on to offer the opinion, taking into account potential for some adverse effect on the proportions of the building, that *“In my view reducing all the ridges to permitted development height would have a significant and beneficial effect in terms of the bulk of the building and its impact on the rural environment.”*

In assessing the harm caused by the building both inspectors were of the opinion that the existing building, when combined with other buildings “..gave the impression of a nearly completely built up frontage”. The garage for a car, erected (under permitted development rights) earlier this year between the appeal building and the road has added to the built up effect, although, along with the frontage boundary treatment, it does serve to screen the lower parts of the residual building as proposed in this application. By removing that part of the building which is overtly domestic and includes a porch canopy, the frontage of the site would be opened up somewhat. On balance this, in conjunction with the lowering of the roof, would produce an acceptable impact on the character of the countryside.

The alterations to the building, being fundamental to its acceptability, would need to be secured by condition. The works required to alter the building would be more complex than the enforcement requirement for demolition. As such a period of nine months for completion of all internal and external alterations would be reasonable, when tested against Paragraph 204 of the NPPF.

Fallback position and sustainability

Were the subject building not in existence it is highly likely that the applicant would be able to build a structure identical or similar to the proposal shown in this application. In considering the enforcement appeal the inspector was in little doubt that, following demolition, a new building to accommodate the motorcycles would be constructed under permitted development rights. Therefore, in sustainability terms the application proposal represents a better alternative outcome.

Conclusion

Notwithstanding the preceding site history the application responds well to the observations of the inspectors in considering the merits of the existing quasi-residential building. The proposal involves substantial demolition and alteration such that the resultant building, for a genuinely incidental need, would be in conformity with the relevant development plan policies. This approach would be more sustainable than the likely alternative of a replacement building compliant with permitted development parameters.

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 drawing ref: 179 HL 030 Rev B; 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.

2. The internal and external alterations and partial demolition shown on the approved drawing shall be completed in their entirety within 9 months of the date of this permission and any materials resulting from partial demolition of the existing structure, including any building materials and rubble, shall be removed from the site within that time period.

Reason: To ensure that the resultant building is in conformity with the development plan and is of acceptable impact in its countryside setting.

3. The building shall only be used for purposes incidental to the enjoyment of the dwellinghouse known as The Hill Lodge, Deep Dale Lane, Barrow on Trent, DE73 7NH; and shall specifically not be used wholly or in part for living accommodation.

Reason: To ensure that the building remains available for purposes incidental to the enjoyment of the dwelling house.

4. The external walls exposed following partial demolition shall be faced in brickwork to match the existing brickwork in colour, coursing and texture.

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

Informatives:

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

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2015/1072	Coton Park, Linton	Linton	Dismissed	Delegated	93

Appeal Decision

Site visit made on 14 April 2016

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

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

Decision date: 04 May 2016

Appeal Ref: APP/F1040/D/16/3142326

75 Coton Park, Linton, Swadlincote DE12 6RF

- 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 J Wolfenden against the decision of South Derbyshire District Council.
 - The application Ref 9/2015/1072, dated 12 November 2015, was refused by notice dated 7 January 2016.
 - The development proposed is side extension to form ground floor store and utility and 1st floor bedroom, including internal modifications.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in determining this appeal is the effect of the proposal on the character and appearance of the property and surrounding area.

Reasons

3. The appeal property is a two storey semi-detached house situated in a residential area. Houses along Coton Park are predominantly of a similar design and scale and are setback from the highway.
 4. Policy H13 of the South Derbyshire Local Plan 1998 (LP) permits residential extensions subject to the proposals being of a scale and character that is in keeping with the property and general character of the area. The Council's Extending Your Home Supplementary Planning Guidance (2004) (SPG) indicates that extensions should generally reflect local scale, character, form and appearance.
 5. In considering this appeal I am also mindful that the National Planning Policy Framework (the Framework) also places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment.
 6. The appeal property when viewed from the front currently appears symmetrical in width with its semi-detached pair. I saw on my site visit that the property is visually prominent within the street scene, due to its elevated and angled position within the plot and its location on the corner of a road junction.
-

7. It is not disputed that the two storey side extension would be subordinate to the main dwelling, as it would be set back from the front elevation and would have a reduced ridge height. However it would extend development immediately adjacent to the highway which would result in a visually prominent addition within the streetscene. This prominence would be exacerbated by the uncharacteristic angle of the proposed end gable wall which would result in an extension that would be wider at the rear than at the front. This would not be sympathetic to the existing clear design of the property. Whilst the difference in the extension width would not be clearly visible when approaching the property from the south, I consider the development would appear awkward particularly when viewed from the front.
8. The appellant has drawn attention to other properties in the area that have been built or where existing properties have had some form of alterations made to them. However I do not have full details of these examples. Based on the evidence that is before me and my observations on site, the examples given do not appear to include similar side extensions. Accordingly they are not directly comparable to the development that is before me. In addition these properties are not situated on a prominent corner location. Whilst I note that various details on the existing properties such as doors and windows and render colour may be different, these variations do not detract from the overall broadly repetitious design of the houses within the street.
9. Consequently, taking the above into account, I conclude that the development as proposed would result in an extension that would be visually prominent and of poor design which would not be in keeping with the character and appearance of the appeal property or the surrounding area. It would form an incongruous and intrusive feature within the street scene, resulting in material harm to the character and appearance of the property and surrounding area. It would therefore not accord with the Framework and would be contrary to LP Policy H13 and the SPD.
10. In reaching my conclusion I have taken into account other factors raised by the appellant including the desire to provide additional accommodation and storage space within the property. I also note that the property is not a heritage asset or within a Conservation Area. However these matters do not outweigh the harm I have identified.

Conclusion

15. For the reasons given above and having taken account of all other matters raised, I conclude that the appeal should be dismissed.

Y. Wright

INSPECTOR

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	9th AUGUST 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 426 AT TREE TOPS, FINDERN LANE, BURNASTON	REF:
WARD(S) AFFECTED:	ETWALL	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That this Tree Preservation Order (TPO) be confirmed subject to a modification relating to the amended position of T6.

2.0 Purpose of Report

- 2.1 To consider confirmation of this TPO.

3.0 Detail

- 3.1 This TPO was made on 1 March 2016 in respect of a number of trees in the front and side garden area of Tree Tops, Findern Lane, Burnaston. The protected trees are made up of 3 groups (those groups including a varied number of trees) and 9 individuals. The overall tree cover in this location is made up of a mix of broadleaf and evergreen species.
- 3.2 The site had been the subject of a pre-application enquiry for redevelopment which put the retention of the trees in doubt.
- 3.3 The trees are considered to significantly contribute to character of this edge of village situation being highly visible both from the immediate area and from a distance aiding the transition from village edge to countryside.
- 3.4 Two separate comments have been received relating to the proposed Order one from the current owners of the property and one from the potential purchaser and are summarised as:

Current Owners

- The timing of the Order is giving us cause for concern as the sale of the property has not yet been completed. We are worried the Order may affect the sale;

- If the purchaser pulls out of the sale, due to the TPO, we may incur more costs;
- In respect of the actual trees, it is not clear which trees (more those in Group 2) are protected – for example: there are more than 3 Cypresses in G2 so it is not clear which 3 are protected;
- We have concerns the Cypress trees will become very tall blocking light and limiting water to the neighbouring trees and hedges. They could additionally cause a lot of damage if they are blown over due to the elevated position of Tree Tops and the site does suffer more from high winds;
- We are surprised that TPO's were put on any of the Cypresses, as they are a non-native species and are not even an attractive tree, if anything they are seen as a nuisance particularly for neighbours as they block views and take moisture out of the soil;
- The Cherry Tree (in G2) does not belong to Tree Tops;
- T6 is not accurately shown on the plan;

Prospective purchaser

- On previous contact with the Authority (and as part of the purchase of the property) I was told there were no existing Tree Preservation Orders in place on the land;
- The land area in question has been used as a residential plot since the 1950's during which time, no TPO was ever placed;
- The placing of this Order may put the sale of the property in doubt and could result in the loss of a 5% deposit;

3.5 In answer to the comments made officers have the following response:

- It is not the intention to deter prospective purchasers but to shape potential future development to take account of what is a significant visual asset of the site and a constraint that should be accommodated. It is without doubt that the trees add to the attractiveness/appeal of the site;
- The Council provided pre-application advice in respect of redevelopment of the site and the preferred retention of the trees was mentioned as their retention was initially prejudiced. Advice was given that new development should be designed so as to avoid impacting on the trees. The placing of the Order reiterates the importance of the trees to the locality and means that the trees are fully protected from harm that could result from any on site building works. The TPO will result in any redevelopment having to respect the trees and having to be designed in such a way so as to avoid adversely affecting them;
- If there is uncertainty over which trees are protected in the groups, the Council can advise at short notice;
- Trees were protected because of their significant, positive contribution to the visual amenity of the area and not their particular origin. The Cypress trees offer all year round amenity [Page 96 of 97](#) to the groups, providing some

shelter/companionship to the broadleaf ones adjacent. In terms of impact on neighbours, by virtue of separation, any significant or harmful blocking of light or views is not unreasonable.

- Should any tree become unstable or part of a tree be deemed as imminently dangerous, law allows that they are made 'safe' irrespective of its protected status. Again the Council can advise in that capacity;
- Trees will fail at times especially those of a particular age. The trees here appear to be in good health at present. Trees felt to be in decline have not been included;
- The position of T6 has subsequently been amended. The cherry (G2 irrespective of ownership is still covered by the Order;
- Protecting trees of value accords with the Corporate Plan theme of Sustainable Development having environmental/ecological/wildlife benefits.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO (with modification to take account of an amended position for T6 to more accurately reflect its precise location) .

5.0 Conclusions

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

6.0 Financial Implications

- 6.1 Notwithstanding the above representations, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and subsequently refused, and liability for a particular event or occurrence could be demonstrated.

7.0 Corporate Implications

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

8.0 Community Implications

- 8.1 Trees that are protected for their visual amenity value and their contribution to the environment and character of an area. As such they are considered to be of community benefit for existing and future residents, helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 1 March 2016 - Tree Preservation Order
- b. 31 March 2016 – Letter from Rachel Kemps
- c. 5 April 2016 – Email from Shawn Nash