

REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

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

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

Item **1.1**

Ref. No. **9/2018/0294/B**

Applicant:
Mr A Gaskin
179 The Bungalow
Linton Heath
Linton
Swadlincote
DE12 6PE

Agent:
Alan Yarwood
Roger Yarwood Planning Consultant
Wheatley Barn
Wheatley Road
Two Dales
Matlock
DE4 2FF

Proposal: **THE REMOVAL OF CONDITION 4 OF PLANNING PERMISSION**
 REF: 9/2015/0648 (RELATING TO THE SITING OF TWO STATIC
 CARAVANS) AT THE BUNGALOW 179 LINTON HEATH LINTON
 SWADLINCOTE

Ward: **Linton**

Valid Date **09/03/2018**

Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager because previous applications for the site have been determined by the Planning Committee and there are issues that need to be debated.

Site Description

The application relates to a site that is currently occupied by a large mobile home resembling a bungalow (referred to later as 'The Bungalow') and two touring caravans. The site is hard surfaced with compacted gravel and enclosed by close boarded fencing with decorative entrance gates, walls and piers.

The site measures some 15.5m across its road frontage and is approximately 56m deep. It is generally flat and is clear of all vegetation. The land to the northeast comprises National Forest woodland planting whilst a ribbon of residential properties adjoins to the southwest. There are rows of terraced houses on the opposite side of the road. The site lies within the countryside, albeit adjacent to an established residential area.

Proposal

The application is for the removal of Condition 4 of Planning Permission 9/2015/0648, which states:

LINTON HEATH

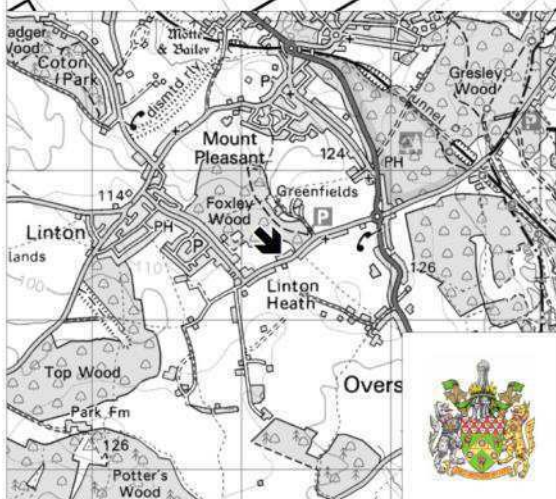
THE SITE

112.2m

10

GVC

De Ferrers
Place



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South Derbyshire District Council. LA 100019461. 2014

“The additional caravans hereby approved shall be occupied only by the applicant, his wife, their children and step children unless otherwise agreed in writing by the local planning authority”.

The reason is given as “in order meet the needs of the existing family on the site”.

Applicant’s supporting information

The whole site has been bought by Mr Gaskin (the current applicant). Who occupies ‘The Bungalow’, however condition 4 prevents any continuing use of the additional caravans, granted permission in 2015. Whilst the condition limits the use to the original applicant’s family, the reason given is not considered to adequately justify such a restriction. A condition which allows the additional caravans to be occupied by members of a family who no longer reside in the host dwelling, but no-one else, is illogical. It cannot now serve any planning purpose. The proposal would make use of the additional caravans and there seems no good planning reason to prevent their occupation by other travellers. It is stated that this would help to meet the Council’s need to provide pitches in accordance with the assessed need as showing in the Gypsy and Traveller Accommodation Assessment (GTAA).

Planning History

- | | |
|-------------|---|
| 9/2005/0802 | Use of land as residential caravan site for one gypsy family – refused but allowed at appeal in September 2006 (with a condition restricting the site to no more than two caravans) |
| 9/2007/0751 | Variation of condition 3 to 9/2005/0802 to allow the siting of one caravan (static) in lieu of two touring caravans – approved August 2007 |
| 9/2008/0764 | Change of use of garden to accommodate static caravans – approved November 2008 |
| 9/2015/0648 | Resubmission of the 2008 application for the siting to two caravans – approved October 2015 |
| 9/2017/0168 | Variation of condition 4 of 9/2015/0648 relating to the siting of two caravans – approved April 2017 |

Responses to Consultations

The County Highway Authority has no objections to the amended plan subject to a restriction on the number of caravans and pitches at the site.

Responses to Publicity

Five objections have been received, raising the following concerns:

- a) Current conditions should remain (i.e. for one gypsy family to live in two static caravans on the site) as to allow an increase would be detrimental to the health, safety and wellbeing of the local community;
- b) Increased likelihood of rubbish, pollution, vermin and noise;
- c) Existing badly plumbed drainage system leads to flooding of adjacent garden and surrounding land;
- d) Detrimental impact on adjacent busy and dangerous road which has poor visibility;
- e) Other sites nearby that could be used; and
- f) Loss of privacy.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H20 (Housing Balance), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (National Forest).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas)

National Guidance

- National Planning Policy Framework (NPPF) revised July 2018
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (PPTS) revised August 2015

Local Guidance

- South Derbyshire Design Guide SPD
- Gypsy and Traveller Accommodation Assessment (GTAA)

Planning Considerations

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

- Principle of development;
- The need for additional gypsy caravan pitches;
- Capacity of the site and general living conditions for occupiers; and
- Amenity of adjoining occupiers.

Planning Assessment

Principle of development

The result of removing the condition the site would, effectively, change the nature of the site from one that provides one gypsy pitch for an extended family, to a site that would provide three gypsy pitches, with each occupied by a separate family. This would go beyond the scope of the original planning permission that was granted on appeal, which was allowed on the basis of personal circumstances at the time.

LP1 policy H22 advises that sites for Gypsies and Travellers and Travelling Showpeople will be considered suitable providing they are of an appropriate scale and character and “the site provides a safe and acceptable living environment for occupiers with regard to noise impacts, adequate on site facilities for parking, storage, water supply, drainage and sanitation”. As this is an established site the majority of these amenities are already provided, although on-site storage is minimal. In terms of general sustainability and having regard to policies H22, S6 and SDT1 the site is considered to be reasonably accessible to local services including health services, shops, education, public transport and other community within both Linton and Overseal such that the same conclusion can be reached as within the 2006 appeal that the site is a sustainable location.

The need for additional gypsy caravan pitches

The Council's GTAA, published in June 2015, set out the identified future needs for new Gypsy and Traveller accommodation. The assessment identified a need within the District for 14 new pitches over 5 a year period from April 2014 to March 2019, with a subsequent need for 7, 8 and 9 pitches for each 5-year period thereafter up to 2034. Policy H22 commits the Council to allocating new sites to meet this identified need through a Site Allocations Development Plan Document. However, in the interim period prior to the preparation and adoption of this document, this need must be met by individual applications.

To meet this need (i.e. the need between 2014 and 2019) permission has been granted for 13 pitches, which demonstrates that the need for additional pitches is being met and delivered to accord with the requirements of the GTAA, although still 1 pitch short of the identified need up to March 2019. However, notwithstanding the fact that the Council are delivering the necessary pitches, there is also the requirement for the Council to identify a supply of specific sites sufficient to provide a rolling 5 years' worth of sites against the GTAA targets. Despite the recent permissions to meet the need between 2014 and 2019, the Council is not currently in a position to demonstrate a sufficient supply of specific sites to meet the need identified within the GTAA, and the increase of pitches on this site would help to move towards meeting this need.

Capacity of the site and general living conditions for occupiers

Condition 4 of the 2015 permission restricted the occupancy of the two caravans (in addition to 'The Bungalow') to the applicant at the time (Mr McCann), his wife, their children and step children, who controlled the overall site. This condition was

imposed as a case was made that the applicant needed additional accommodation to house his growing family.

In 2017 that condition was replaced with a similar condition to restrict the occupancy of the caravans to the site owner, their wife/husband, their children and step children, on the basis that the site owner had changed – to Mr Gaskin. When the site was sold it was cleared of all caravans and the new owner subsequently brought on another large bungalow-type caravan in which he now lives. In addition to this, there are currently two touring caravans on the site which belong to the new owner, one of which appears to be occupied.

Whilst the size of a Gypsy pitch will vary from site to site, as a general rule to be counted as such it should be capable of accommodating a static or large trailer caravan, a touring caravan, a small amenity building/store, drying space for clothes, parking space for two vehicles and, if possible, a small garden area. Now deleted national guidance indicated that smaller pitches should be able to accommodate at least a large trailer/static caravan, an amenity building, drying space for clothes and parking for at least one vehicle.

The block plan originally submitted is the same plan that accompanied the 2015 permission. This plan shows two static caravans plus the original static (The Bungalow), each with two parking spaces, together with an existing utility block. There is now an additional timber toilet block positioned in the top corner of the site, with two cubicles. Owing to the size constraints of this site, amended plans were requested to show how the site could accommodate the additional amenities outlined above (i.e. drying space for washing, storage sheds and (recommended) garden area. The applicant confirmed, verbally, that the occupiers of the two statics would not require space for parking a touring caravan as they are likely to arrive or leave by car or van. This, however, would appear to contradict the usual definition of a traveller – that is a person who leads a nomadic lifestyle, with them travelling away for work and living in a touring caravan when away from their primary home. In response to this concern, the applicant has now provided an amended block plan showing how three static caravans, three touring caravans, six parking spaces (two for each pitch, together with manoeuvring space), the existing amenity block and the 'shed' in the southwest corner of the site; can all be accommodated.

The position of the vehicular access would remain in its current location, although the amended plan now shows the access route extended further into the site to serve the other two statics. A small amount of amenity space/drying space has also been incorporated in the scheme. Notwithstanding earlier reservations, it would appear therefore that the site is able to accommodate the three separate pitches that would be created as a result of removing the condition. As a result it is considered that the proposal is consistent with the requirements of policies H22, SD1 and BNE1 of the LP1, and the PPTS.

Amenity of adjoining occupiers

The impact of the occupation of the site on the amenity of neighbouring residents was considered during the 2006 appeal. The Inspector for that appeal concluded that the degree of impact would be acceptable. Although the appeal decision allowed for

a maximum of two caravans on the site, this has since been increased to allow for the siting of three static caravans (albeit within the same family) at which time it was also considered there would be no further undue harm caused to neighbouring occupiers in terms of overlooking and loss of privacy. Whilst it is noted that the proposal would facilitate 3 separate families living on the site, the existing permission broadly facilitates the same quantum of development, with multiple generations of an extended family capable of occupying the 3 caravans. There is no evidence to demonstrate that a materially different impact would arise, and as such the proposal is not considered to demonstrably impact upon the amenities of neighbouring occupiers and as such is considered to be compliant with policies H22, SD1 and BNE1 of the LP1.

Conclusion

The decision on whether to delete the condition comes down to whether there would be sufficient space within the site to provide for three separate pitches. In this case the applicant has demonstrated that the site is capable of accommodating the necessary space and facilities i.e. three static vans, three touring caravans, a small storage area, parking spaces and associated drying and play space. With the Gypsy status of the site being established through the 2006 appeal decision it is considered that the application should be approved.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the amended layout plan ref. no. G.18.01 received on 29 June 2018 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in the Government guidance 'Planning Policy for Traveller sites' (August 2015), or any Government guidance which amends or replaces that guidance.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements.

3. There shall be no more than 3 pitches on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 (as amended) and the Caravan Sites Act 1968, shall be stationed at any

time of which only one caravan per pitch shall be a residential mobile home/static caravan.

Reason: In order to ensure a satisfactory form of the development so to preserve the character of the locality, the amenities of neighbouring occupiers, and ensure the occupation of the site does not dominate the nearest settled community.

4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site, and no commercial activities shall take place on the land, including the storage of materials.

Reason: To safeguard the amenities of nearby occupiers and/or in the interests of highway safety.

5. The use hereby permitted shall cease and all caravans, structures, materials and equipment brought onto the land for the purposes of the use, so far as allowed for by way of this permission, shall be removed within 28 days of the date of failure to meet any one of the requirements set out below:

(i) within 28 days of the date of this decision, the foul and surface water drainage shall be installed in accordance with plan/drawing ref: 1617-04A as approved under condition attached to planning permission ref. 9/2015/0648 unless within that period an alternative surface and foul water drainage scheme, to discharge to mains sewer, has been submitted for the approval in writing by the Local Planning Authority, whereupon within 28 days of an approval given pursuant to that submission, the drainage shall be installed/modified in accordance with the approved details;

(ii) within two months of the date of this decision, the parking spaces and circulation areas shall be laid out in accordance with the layout plan hereby approved and such area(s) shall thereafter not be used for any purpose other than the parking and turning of vehicles associated with the development; and

(iii) within two months of the date of this decision, details of a scheme of soft landscaping has been submitted for the approval in writing by the Local Planning Authority.

Reason: To ensure adequate drainage of the site noting that the site falls within the catchment to the River Mease Special Area of Conservation, to ensure adequate parking and turning provision in the interests of highway safety, and in the interests of the visual amenities of the area; all matters recognising that the application is retrospective, in part.

6. 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 approval of the details; and any trees or plants which within a period of 10 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.

Informatives:

1. The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involve entry into any coal or mines of coal, including coalmine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.
2. The development hereby authorised does not override the requirements of the Caravan Sites Act/Site Licence legislation.

Item **1.2**

Ref. No. **9/2018/0619/FM**

Applicant:
Mr & Mrs Jonathan Hart
Hill Top Farm
Burton Road
Repton
Derby
DE65 6FN

Agent:
Mr Andrew Shallish
Shallish Associates Limited
3 Quayside Place
Quayside
Woodbridge
IP12 1FA

Proposal: **THE ERECTION OF A REPLACEMENT DWELLING, THE CHANGE OF USE OF AGRICULTURAL LAND TO ADDITIONAL RESIDENTIAL GARDEN, INSTALLATION OF DRAINAGE TREATMENT PLANT AND GROUND SOURCE HEAT PUMP ALONG WITH ASSOCIATED WORKS AT HILL TOP FARM BURTON ROAD REPTON DERBY**

Ward: **Repton**

Valid Date **11/06/2018**

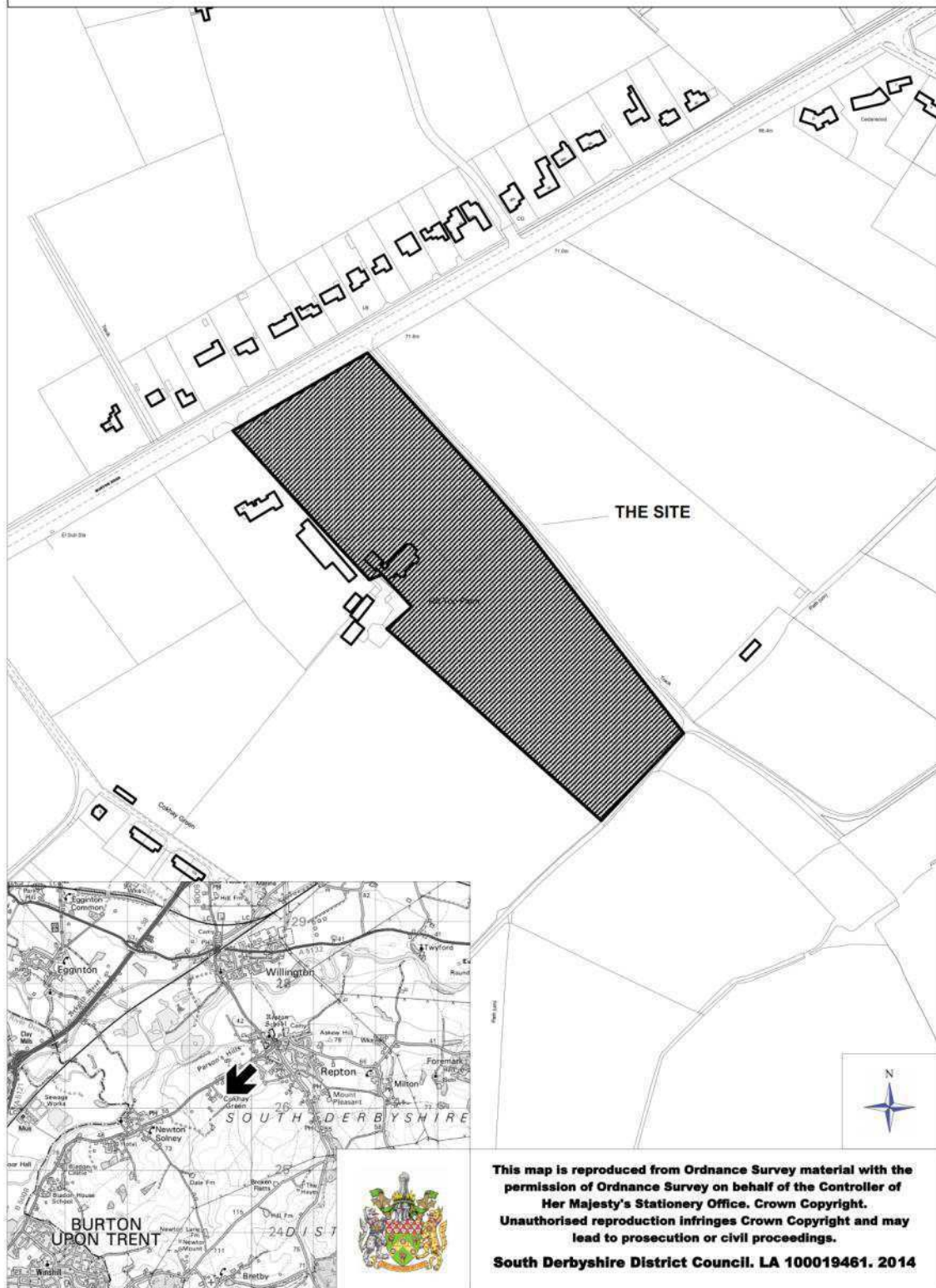
Reason for committee determination

The item is presented to Committee at the request of Councillor Peter Smith as local concern has been expressed about a particular issue and unusual site circumstances should be considered.

Site Description

The application site is broadly rectangular comprising approximately 7.7 ha of land, predominantly laid out as paddock and fronting Burton Road, Repton but containing the existing dwelling towards its rear. The land falls away from the road and the first of two paddocks bounded by a post and rail fence leads up to the existing property with the access and driveway at the western edge of the paddock leading to a large parking area and triple garage. The driveway continues south to a complex of barns to the south west of the main dwelling and close to the southern boundary of No 75 Burton Road. Whilst the barns do not form part of the application site, and neither do the two paddocks; they are within the applicant's ownership and the barns benefit from consent for conversion to a single dwelling. The existing two-storey dwelling is of unremarkable design having been extensively enlarged and modernised in the late 20th century. On the rear of the existing dwelling is a large white uPVC conservatory which is highly visible across the rear paddock to the south of the dwelling from a public right of way and access track to the east and public footpath to the south.

9/2018/0619 - Hill Top Farm, Burton Road, Repton. DE65 6FN



Proposal

The application seeks the demolition and replacement of the large existing dwelling and garage with a replacement dwelling in the form of a group of agricultural buildings in a modern vernacular, along with a detached garage/storage block and extension of the existing domestic curtilage to provide for a relocated garage block and tennis court, orchard and landscaping. The proposal also includes a ground source heat pump and drainage treatment plant and utilises the existing access, driveway whilst parking, cycle and bin storage are all incorporated.

Applicant's supporting information

A Planning Statement describes the detail of the application and sets out the technical and policy considerations setting out how the proposal meets the policies of the NPPF and South Derbyshire's adopted Local Plan.

A Design and Access Statement sets out the design concept for the new dwelling which evolved following the exploration of a cluster of agricultural shed/barns. The main form comprises of three varying heights and widths of two storey buildings, two of which are linked with a glazed atrium. This document therefore sets out the justification for the appearance and finishes as well as the proposals impact in the landscape.

Planning History

9/1988/0797	Conversion of outbuilding to dwelling – Refused December 1988
9/1989/1035	Erection of garage block and single and two storey extension – approved March 1989
9/2014/0602	Two storey rear extension, single storey rear extension, triple garage with room above, double car port and new porch area – approved August 2014
9/2014/0917	Barn conversion including partial demolition and extensions to form dwellinghouse with attached double garage and garden – approved December 2014
9/2015/0269	The widening of a field access and change of use of paddock to form a vehicular access – Approved June 2015
9/2017/0703	The conversion including partial demolition and extensions of an existing barn to form a dwellinghouse with attached double garage and change of use of land to form garden – approved November 2017
9/2017/1126	The erection of two storey rear extension with balcony, single storey rear extension, new triple car garage with room above, double car port and new porch area (resubmission of approved application 9/2014/0602) – approved December 2017

Responses to Consultations

The Highway Authority has no objections subject to parking and manoeuvring space being provided prior to first occupation and maintained thereafter clear of obstruction to its designated use.

The Development Control Archaeologist states that the proposals would have no archaeological impact.

Responses to Publicity

Repton Parish Council refers to the emerging Repton Neighbourhood Plan which has now passed independent examination and will proceed to referendum. They consider that the Neighbourhood Plan must be given weight as a material consideration citing policy H5 relating to the design of new developments. This policy goes on to cite the Repton Village Design Statement and the guidelines contained within it. The Parish Council considers that the proposed development is not in keeping with the scale and style of housing on Burton Road and clearly conflicts with the emerging Repton Neighbourhood Plan and associated Village Design Statement.

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

- a) There is nothing wrong with the existing house;
- b) The proposed building is significantly larger than the existing house;
- c) The materials are not in keeping in this location having an industrial look, looking ugly and bizarre in this highly visible rural location;
- d) Whether shiny or dull, and whatever the height, the roofs would not complement the surroundings;
- e) The appearance/design of the building is out of character with current buildings in the area;
- f) The proposal would have a negative impact on the area;
- g) The central block of the building would be taller than the existing building and is highly visible from Burton Road and public footpath, and more intrusive in the landscape than the building it replaces and therefore not in accordance with the Repton Village Design Statement (RVDS);
- h) There is no need for the building to be as tall as it is;
- i) Question over whether the current dwelling the subject of an agricultural restriction;
- j) The applicant claims that this this would be a positive contribution to the housing stock but in reality this is a replacement dwelling (i.e. one for one);
- k) Cannot understand why the rear of the dwelling is fronting Burton Road;
- l) The majority of people viewing this property would view this from Burton Road - none of the visual impact photos show the view that residents on the north side of Burton Road would see;
- m) The building would not contribute over 'a long period of time' to the local economy;
- n) The proposed views are, in the main, false representations and the actual building would be more intrusive;
- o) Why try to make this area something that it is not;

- p) Has the recent approval of the conversion of the indoor swimming pool at 75 Burton Road been taken into account;
- q) The orientation of the proposed dwelling does not respect the RVDS;
- r) The materials do not respect the character of the area as set out in the RVDS;
- s) The proposal is in many ways not in accordance with the emerging Repton Neighbourhood Plan which cites that new development should be in accordance with the updated RVDS.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), H24 (Replacement Dwellings in the Countryside), H26 (Residential Gardens within the Countryside)

Emerging Policies

The relevant policies are:

- Repton Neighbourhood Development Plan (NDP): H1 (The Limits of Development), H2 (Development Within Settlement Confines), H5 (Design of New Developments to be High Quality), H6 (Design of Adequate Parking), OS2 (Visual Impact), OS3 (Important Trees and Woodland), T1 (Parking)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of development;
- Design and residential amenity;
- Landscape character;

- Highway safety including public rights of way and parking provision.

Planning Assessment

Principle of development

The principle of development is supported by way of policy H24 of the LP2 allowing existing buildings in the countryside to be replaced provided “(i) the form and bulk of the new building does not substantially exceed that of the original dwelling; (ii) is not more intrusive in the landscape than which it replaces; (iii) is substantially the same setting as the existing dwelling and (iv) the existing building to be demolished is not of historic merit”. In addition, the emerging NDP has recently been examined and this is now, subject to the inclusion of the changes recommended by the external examiner, to proceed to a referendum. Policy H2 of the emerging NDP refers to new development being focussed to within the limits of Repton and Milton, as defined by policy H1; but it is silent on the issue of replacement dwellings. Policy H24 of the LP2 therefore remains the primary policy supporting replacement dwellings in the countryside.

This proposal also seeks to change the use of a small area of land adjacent to the existing residential curtilage to facilitate the proposed design. In the context of the overall land ownership, this change of use is relatively minor. Policy H26 of the LP2 controls the change of use of agricultural land to domestic garden “provided it does not result in detrimental domestication of the countryside within rural areas”. The additional residential curtilage is to provide space for the relocated garage block and a tennis court, and a condition can preclude further outbuildings, hardstandings and enclosures. Extension of the building, noting that this proposal replaces a considerably extended building of considerable scale in the first instance, should also be prevented by condition in the interests of curtailing domestication and recognising the allowances of policy H24. This control can also ensure the design merits of the proposal (discussed below) are not lost with alterations over the lifetime of the dwelling.

A further area is included within the red line to the south and shaded red on the location plan identifying the area for the installation of a ground source heat pump and drainage treatment plant. This area would be retained as paddock once the equipment has been installed. Whilst this incursion stretches the residential curtilage to the south east, the extension is predominantly within the existing field boundaries and would be screened somewhat from the footpath by trees proposed to be planted within the paddock. Thus, subject to removal of permitted development rights for enclosures and hardstandings, it would maintain the rural landscape and therefore comply with policies H24 and H26 of the LP2, along with emerging policy OS2.

Design and amenity

The Design and Access Statement sets out clearly the design philosophy of the replacement dwelling, applying the applicant’s aspirations it to the physical and visual context of the site. The dwelling is designed to reflect a modern interpretation of a farmstead – a cluster of agricultural buildings. The main form is made up of three interconnected buildings of varying height, the central building being the tallest

with a height to ridge of approximately 9.3m. Whilst this central block is taller than the building which it replaces, the breaking up of the living accommodation, garaging and indoor pool reduces the massing – thereby overall reducing the impact on its setting.

The complex of buildings is larger than the dwelling which it replaces totalling 2,710m³ compared with the 2,276m³ made up of the existing dwelling and extant permission (9/2017/1126). Whilst this is still somewhat less than the current proposal, the existing dwelling still has permitted development rights to allow for a further outbuilding of considerable scale to be erected in the rear garden without the need for planning consent, along with further rear extension under a prior approval – both which would exceed the current proposal. The applicant has agreed to the removal of permitted development rights for additional structures and this is a useful mechanism to limit the extent of built form on site. The proposal is largely on the same footprint as the existing dwelling but extends north east and south east and the garage block – previously parallel to the driveway and relatively close to the adjacent outbuilding in the garden of 75 Burton Road, itself having consent for conversion to a dwelling (9/2017/1335); would move to the north east of the complex of buildings, utilising the existing driveway and parking area.

The Design Excellence Officer states that the property is highly visible from Burton Road, the footpaths and tracks to the rear and side, and also as it sits on high ground, relative to the footpaths and buildings a little further away to the south east of the site. The dark timber is considered recessive and although the light coloured stone would stand out, this is at ground floor level so would be obscured to some extent by landscaping. The only concern, therefore, is the roofing materials. The main thing to avoid would be materials which are glossy/shiny as these would reflect light and stand out/not fit with the rural character and surrounding materials (roof tiles on domestic properties and barns/outbuildings). The 'barn' architectural concept for the buildings is appreciated however, and it is positive to see Tesla roof tiles, albeit these should be matt in appearance.

The palette of materials will be key in the implementation of this scheme and a condition requiring the submission and approval of materials prior to commencement is recommended. However, the materials proposed include stone, timber and steel/zinc roof, as well as Tesla roof tiles, recognising the applicant's desire to minimise the building's carbon footprint and enhance its environmental credentials. These are all materials that can be found in the parish of Repton with the exception of the Tesla tiles, although a number of properties carry more obvious solar photovoltaic panels which sit proud of the roofslope. Timber is a material promoted by the Design Guide given the close association to the National Forest, with its use promoted throughout the District under this SPD. The larch cladding would weather and be reflective of other timber clad barns in the area and would help the new building to be significantly less visible in the landscape and, in particular, less prominent than the existing white uPVC conservatory visible from the access track and public footpath.

Drawing all these considerations together, and recognising that future alterations need to be controlled by way of a condition to withdraw permitted development rights – so to safeguard the merits of this design; it is considered the proposal would be of

high quality and designed to reflect the character and distinctiveness of the village of Repton, as well as reflect the design principles in the Village Design Statement (noting it is not an absolute requirement for it to accord with those principles). The proposal's design is considered to comply with LP1 policies S3, BNE1 and BNE4, and policies H5 and OS2 of the emerging NDP.

Regarding residential amenity; given the extensive plot within which the existing building sits and the fact that the new dwelling is to be located slightly to the east, there would be no issues as regard overlooking of neighbours, including the recently approved conversion at the rear of 75 Burton Road. There are no issues with overlooking of the barn conversion approved at Hill Top Farm within the same ownership of this proposal as the orientation of the proposed building is such that the main living space faces away from other development, utilising the views to the south across the valley. The proposal therefore complies with policies BNE1 and SD1 of the LP1, the SPD and emerging policy H5.

Landscape character

The site is beyond the main built up area of Repton and within the fringing rural area to the village. There is a ribbon of development along Burton Road from which Hill Top Farm is set back some distance. As such, the proposal sits in a relatively isolated position except for the barns to the west and the outbuildings associated with 75 Burton Road. The proposed development has a larger footprint than the existing dwelling, but the impact on the countryside that this proposal would have is generally neutral given the extant permission for further extension of the existing, as well as potential provided by permitted development rights. The design also reflects the agricultural dominance of the area – it emulating cotemporary farm buildings in a farmstead arrangement. The proposal would cause the loss of a small amount of residential hedgerow, but the applicant proposes to supplement the existing planting with trees and replacement hedgerow, screening much of the proposal from the access track and Burton Road. As such the proposal complies with policies BNE4 and BNE7 and emerging policies OS2 and OS3.

Highway safety including public rights of way and parking provision

As this is a proposal for a replacement dwelling with the existing access and driveway to be retained, the Highway Authority has no objection to the proposal. A condition has been requested requiring space for parking and manoeuvring of cars to be provided prior to the occupation of the new dwelling and to be maintained thereafter. It is also noted that the adjacent public footpaths to the east and south of the property must remain unobstructed and on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. The proposal therefore complies with policy INF2 and emerging policy T2.

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 the Location Plan received on 26 July 2018 and drawings 102b, 104b, 105b, 106b, 107b and 108b, all received on 11 June 2018, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended). For the avoidance of doubt, the extended residential curtilage hereby approved does not include the land hatched red on the site location plan.
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwelling hereby permitted shall not be enlarged, extended or altered, and no hardstandings, buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be installed/erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.
Reason: To recognise the increase in scale relative to the dwelling replaced under this permission, so to ensure that future extensions and alterations do not undermine this allowance and the design ethos of the building, and to ensure that any curtilage structures and surfaces are limited and appropriate to the character and appearance of the building and surrounding area.
4. Prior to their incorporation in to the building(s) and hardstanding(s) hereby approved, details and/or samples of the facing and surfacing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved materials.
Reason: In the visual interest of the building(s) and the surrounding area
5. Prior to the first occupation of the development hereby permitted, parking facilities shall be provided so as to accommodate a minimum of two cars within the curtilage of the dwelling. Thereafter, 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, two parking spaces, each space measuring a minimum of 2.4m (3m wide where abutting a wall or fence) by 5m (6m where enclosed as a garage), shall be retained for that purpose within the curtilage of the site.

Reason: To ensure that adequate parking/garaging provision is available.

6. 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; no boundary treatments shall be erected until plans indicating the positions, design, materials and type of boundary treatment to be erected have been 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 dwelling is first occupied or in accordance with a timetable which shall have first been submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

Informatives:

1. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk or 01629 538243.
2. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

Item **1.3**

Ref. No. **9/2017/0799/MSO**

Applicant:
Mrs Naomi Light
Ryknield House
Alrewas
Burton On Trent
DE13 7AB

Agent:
Mrs Naomi Light
Ryknield House
Alrewas
Burton On Trent
DE13 7AB

Proposal: **OUTLINE APPLICATION FOR THE RE-DEVELOPMENT OF
FORMER AGRICULTURAL LAND TO OFFICES (USE CLASS B1),
GENERAL INDUSTRIAL (USE CLASS B2) AND STORAGE AND
DISTRIBUTION (USE CLASS B8) WITH ALL MATTERS EXCEPT
FOR ACCESS RESERVED AT MIDLAND PIG PRODUCERS
LIMITED WOODYARD LANE FOSTON DERBY**

Ward: **Hilton**

Valid Date **25/07/2017**

Reason for committee determination

The item is presented to Committee because the proposal is not in full conformity with the Development Plan.

Site Description

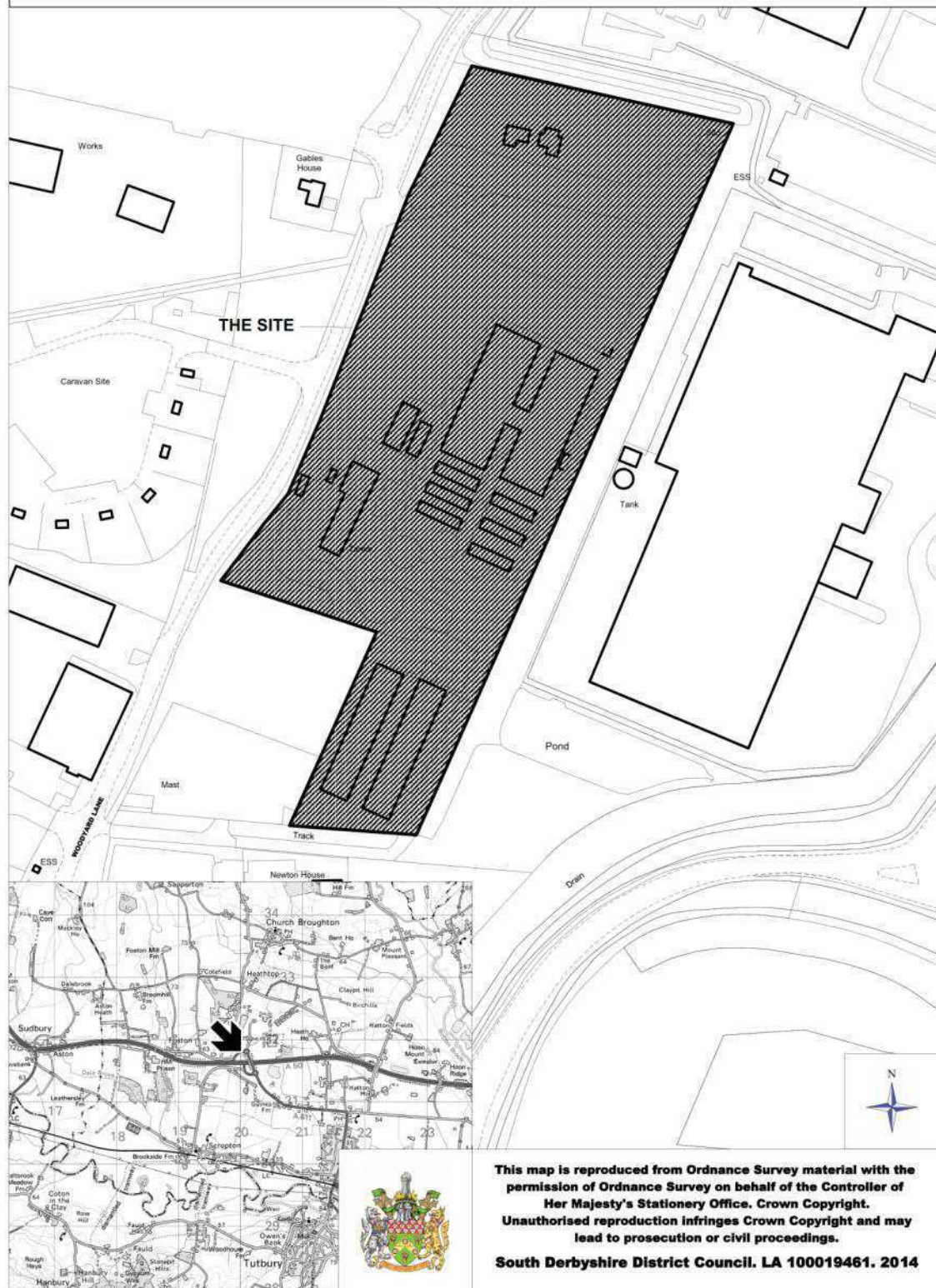
The site is part of the former Church Broughton Airfield and was last used as a pig farm which has now been cleared from the site. Immediately to the south-west corner of the site there is a self-storage facility and Tomlinson Business Park beyond the southern boundary; to the east, the Dove Valley Park employment area; and on the opposite side of Woodyard Lane to the west there are industrial and storage and distribution firms and a gypsy caravan site. There are two houses within the northern end the site. There is also a dwelling opposite the northern site access.

Proposal

The application is in outline and seeks permission to re-develop the land for offices (use class B1) general industry (B2) and storage and distribution (B8). The offices would most likely make use of the existing houses on the site.

Approval of the means of access, which would be a modification of those existing, is sought now. All other details are reserved for later consideration, although an indicative plan shows an area of 2.83ha for B8 uses, 0.17ha for B2 uses and 0.23ha

9/2017/0799 - Midland Pig Producers Limited, Woodyard Lane, Foston. DE65 5DJ



for B1 use. 2.40ha of B8 land would be served by the northern access with the remaining 0.43ha sharing the southern access, which also serves the self-storage facility.

Applicant's supporting information

A Planning Statement opines:

- The site is in a highly sustainable location in a predominantly industrial area with excellent road links;
- There would be no greater impact on neighbours, and odour and dust would be reduced compared with the previous use for intensive pig breeding use;
- Significant trees are retained and the hedgerow would be improved to enhance biodiversity;
- The proposal would create jobs with a range of skill requirements;
- The proposal complies with the NPPF and Local Plan policies; and
- The Environment Agency has formally confirmed, by surrender of environmental permit, that it is satisfied necessary measures have been taken to avoid pollution risk.

A Framework Travel Plan is provided to encourage sustainable forms of travel, identifying a range of measures and includes an initial Action Plan.

An Arboricultural Survey and Method Statement identify trees along the road frontage and northern boundary as worthy of consideration for protection, as well as recommending measures for protection during construction.

A Transport Assessment outlines that:

- No concurrent vehicle accident concerns are present along this section of Woodyard Lane;
- The development is likely to generate approximately 73 and 58 two-way vehicle trips in the weekday AM and PM peaks respectively;
- Testing of development traffic has been undertaken at a number of key off-site junctions and the access to Woodyard Lane; and
- Testing has shown that all junctions assessed would operate well within capacity in all scenarios tested.

An Ecological Appraisal confirms:

- Hedgerows should be retained where possible and new native species planted;
- Only one tree to be felled is a likely bat habitat but there is no evidence of presence;
- Advice is given about clearance of vegetation in a manner that protects wildlife;
- There are no significant ecological constraints; and
- With appropriate mitigation measures relevant ecological receptors would not be adversely affected.

Planning History

None relevant to this particular site although the storage site to the south was once part of the pig farm, and this gained permission in June 2009 under application ref. 9/2009/0279.

Responses to Consultations

Derbyshire Wildlife Trust has no objection subject to conditions.

Severn Trent Water has no objection subject to approval of foul and surface water schemes.

The Lead Local Flood Authority has no site specific comment.

Highways England offers no objection.

The Development Control Archaeologist considers that no surviving remains of the WWII Airfield will exist.

The Environment Agency has no objection and comments that the IPPC permit for the site is now surrendered and the site is cleared.

The Contaminated Land Officer recommends a condition to deal with any contamination remaining from the site's previous use for military purposes.

The Environmental Health officer seeks condition to ensure that noise and light pollution are adequately controlled.

Responses to Publicity

The Parish Council comments as follows:

- a) There is concern about increased heavy traffic along Woodyard Lane;
- b) Clear 'Stop' signs and road markings should be provided at the junction with Uttoxeter Road – many drivers do not yield causing the need for traffic approaching from the west to brake heavily;
- c) Concern of an increase in light pollution.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E7 (Rural Development), 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)

- 2017 Local Plan Part 2 (LP1): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

National Guidance

- National Planning Policy Framework (NPPF) revised July 2018
- Planning Practice Guidance (PPG)

Local Guidance

- South Derbyshire Design Guide SPD
- Trees and Development SPG

Environmental Impact Assessment

Having considered the characteristics of the development, including its scale and nature, the location of the development and the types and characteristics of the potential impact, the proposal is unlikely to lead to significant effects both in isolation and cumulatively with future development at Dove Valley Park. The application is therefore not accompanied by an Environmental Statement, following a screening opinion under the EIA Regulations.

Planning Considerations

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

- The principle of development
- Visual impact
- Transport and highway safety
- Ecology and trees
- Contaminated land
- Amenity
- Design
- Environmental Impact Assessment
- The planning balance

Planning Assessment

The principle of development

The proposal is not positively supported by the economy policies in Local Plan and the site is not previously developed land as defined by the NPPF due to its last use being agriculture (albeit of an intensive nature akin to industry in character). Nonetheless, policies E7 and BNE5 support proposals for new employment buildings outside settlements where:

- i) supported by a sound business case;
- ii) the local highway network is capable of accommodating the traffic generated;
- iii) development will not give rise to any undue impacts on neighbouring land;
- iv) well designed and of a scale commensurate with the proposed use
- v) visual intrusion and the impact on the character of the locality is minimised.

For reasons described below the proposal either satisfies these policy criteria, or will be capable of so doing through reserved matters, with the exception that a sound business case has not been made. For this reason alone the proposal does not comply with the Development Plan and a refusal could turn on this point.

Nevertheless, given the environs of this site and the quasi-industrial form of previous use of the land, there is good reason to look at the underlying aim of the policy – that being to diversify and expand sustainable employment activities within rural areas for the benefit of rural communities.

The site sits squarely within an area already subject to substantial employment related development and further allocations in the LP1 – where infrastructure exists to serve such uses, in particular with regard to access to the transport network and public transport for employees. As such this is an inherently sustainable location for the development now proposed, according with LP1 policy S6. In addition, LP1 policy S5 sets out a need for providing 53ha of net additional employment land – as a minimum.

Notwithstanding the above, the proposal is in outline and seeks to include B1 use. Use class B1 includes light industry, research and development and offices. Offices are a main town centre use and, under the strategy of the Local Plan and the NPPF, should be focussed towards town and local centres – where sustainable transport opportunities are at their best. Nonetheless, the extent of office development would be a minor part of the wider site here to be viewed as ‘small scale’ in the eyes of the NPPF, and thus avoid the need to be considered under the sequential test approach. With this in mind, it is necessary to condition a maximum allowable floorspace, and with the applicant indicating that the offices would be provided by linking the existing dwellings, there is potential to achieve a sustainable form of development without creating further conflict with the Development Plan.

Visual impact

Although outside a settlement, the area around the site is heavily built up with employment related development, with some large buildings on premises such as ATL, Müller and JCB. Furthermore the site does not make a positive contribution to the area in its present state, apart from the hedge and trees to the site frontage which act as an effective screen, and some trees within the northern part of the site – all identified in the survey as trees of moderate quality and value, including public visual amenity value. Such trees should be considered for retention, and this objective along with long term protection and enhancement of those features could be secured by condition. Subject to appropriate tree retention and landscaping the impact of the development on the landscape character of the area would not be harmful, in accord with policy BNE4, and the objectives of policy BNE1 could be secured through the reserved matters process.

Transport and highway safety

The Highway Authorities have no safety or capacity concerns. The Framework Travel Plan provides a basis for maximising sustainable transport opportunities. The applicant has also agreed to provide a pedestrian linkage to the existing footway at the junction of Woodyard Lane, subject to detailed design approval. It is also noted that the site would be within a reasonable walking distance of the extended bus route to be secured under phase 2 of Dove Valley Park. These matters could be secured by condition, and the requirements of policies S6 and INF2 are thus satisfied.

Ecology and trees

On the advice of Derbyshire Wildlife Trust conditions could be applied to ensure that ecological interests are safeguarded. However one recommended condition, relating to prior nesting bird survey before removal of hedgerows, trees and shrubs between March and August, is considered unnecessary because birds are protected by separate wildlife legislation and licencing scheme through Natural England. An informative would suffice to remind the applicant of this separate responsibility. Subject to the other recommended conditions, relating to tree/hedge protection and adherence to the recommendations in the submitted ecological assessment, the proposal would be in accord with policies BNE3 and BNE7.

Contaminated land

The site has already been restored to a state that has enabled the Environment Agency to accept surrender of the IPPC permit under which the former pig farm operated. The recommendations of the Contaminated Land Officer could be secured by condition, in compliance with Policy SD4.

Amenity

Given the already industrialised nature of the locality the proposal is unlikely to materially worsen the living conditions of people living in the area, subject to appropriate conditions relating to noise and light. As such the proposal would not offend policy SD1.

Design

Although in outline only, having regard to the considerations above the proposal is capable of achieving acceptable design standards in accordance with the Design Guide and policy BNE1.

Planning balance

Although the site is outside the existing Dove Valley Park site and not included as an allocation in the Local Plan, it is nevertheless effectively surrounded by, and part of, business land uses. Furthermore, its previous use for intensive farming displayed industrial characteristics and the site is relatively well served by a range of transport options to enable employees to sustainably reach their place of work. The site does

not make a positive contribution to the general character of the area, apart from the roadside hedge and trees and specimen trees within the site.

Whilst there is a conflict with part of LP1 policy E7, having regard to the circumstances described above the proposal is not considered to prejudice the general application of the policy across the District's rural areas, nor undermine the strategy of employment land provision across the Plan period. This limited harm to the primacy of the plan-led system is considered, in this case, to be outweighed by the significant employment benefits which would arise. As such the proposal represents sustainable development, according with the aims of policies S1 and s2 of the Local Plan.

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

Recommendation

GRANT permission subject to the following conditions:

1. Approval of the details of the appearance, landscaping, layout and scale (the Reserved Matters) shall be obtained from the Local Planning Authority in writing upon an application made in that regard before any development is commenced.

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

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

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

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

3. This permission relates to the amended Location Plan ref. L40.9/003 received on 24/07/2018. The access shall be carried out in accordance with plan ref. IPD-16-370-111 Revision D, 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); whilst the reserved matters shall be broadly in accordance with the same plan. Notwithstanding this, the Reserved Matters shall ensure that any B1(a) floorspace created pursuant to the permission does not exceed the existing gross floor area of the two dwellings within the site, plus 25%.

Reason: To ensure the detailed scheme submitted accords to the principles secured at outline stage, recognising that creation of office floorspace in the

rural areas is generally not supported by the Development Plan, and to ensure acceptable access arrangements are delivered.

4. The existing accesses shall be retained available for use by construction traffic throughout the construction period.

Reason: In the interests of highway safety, acknowledging that construction traffic will create impacts on highway safety on commencement of development.

5. No development, including preparatory works, shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading, manoeuvring and cleaning of wheels of goods/construction vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period. All construction vehicles shall have their wheels cleaned on a hard surface before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety, acknowledging that construction traffic will create impacts on highway safety on commencement of development.

6. Prior to the development being taken into use, the existing northern access to the site shall be provided in accordance with the approved access drawing and be provided with a minimum width of 7.3m, 10m kerbed radii and visibility sightlines of 4.5m x 57m, the area forward of which shall be cleared and maintained in perpetuity clear of any obstructions exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

7. Prior to the development being taken into use, the existing southern access to the site shall be provided in accordance with the approved access plan and be provided with a minimum width of 7.3m, 10m kerbed radii and visibility sightlines of 4.5m x 120m, the area forward of which shall be cleared and maintained in perpetuity clear of any obstructions exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

8. Any gates shall be set back at least 10m into the site from the highway boundary.

Reason: In the interests of highway safety.

9. The Travel Plan (dated 19.07.2017 ref. IPD-16-370) shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are first submitted to and approved in writing by the Local Planning Authority. The Travel Plan, as approved or amended under this condition as the case may be, shall be monitored and reviewed in accordance with the approved Travel Plan targets.

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

10. A footway link shall be provided to the bus stop on Uttoxeter Road prior to the first use of the development, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of sustainable transport.

11. a) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the Local Planning Authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report 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 Local Planning Authority, 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 development of it.

12. 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 Local Planning Authority 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.

13. During the construction phase, no construction work or deliveries shall take place on the site other than between 0800 and 1800 Monday to Friday, and 0800 and 1300 on Saturdays. There shall be no construction works or deliveries at any time on Sundays or Public Holidays with the exception of

work needed during an emergency. In addition, only super silent generators or pumps to be used on site during the construction phase.

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

14. Concurrent with the submission of each of the reserved matters relating to the construction of a building or service areas to buildings, a scheme which specifies the provision to be made for the control of noise emanating from the site, including hours of operation and associated deliveries to the premises, and which addresses the impact that the activities inside and outside the commercial buildings will have in terms of noise on nearby residential properties, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme and mitigation measures shall be implemented in full before each relevant building is brought into use and shall be retained in place/carried out as approved for the lifetime of the development.

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

15. Concurrent with each Reserved Matters application for the construction of a building or laying out of service areas and internal roads, the applicant shall submit for written approval by the Local Planning Authority details of a scheme for external lighting. No external lighting other than as approved shall be installed without the prior written approval of the Local Planning Authority upon an application made in that regard.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties and to minimise sky glow.

16. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

17. Vegetation clearance and removal of log/brush piles shall be undertaken only in accordance with the recommendations in paragraph 4.1.11 of the submitted Preliminary Ecological Appraisal ref: ST15886 ECO-001.

Reason: To protect hibernating fauna.

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

with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- i) into the ground (infiltration);
- ii) to a surface water body;
- iii) to a surface water sewer, highway drain, or another surface water drainage system;
- iv) to a combined sewer.

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

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

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

20. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 20. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

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

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

Informatives:

1. 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.

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.

2. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:
 - whether the land in question is already affected by contamination through source -
 - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
 - whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
 - what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation

without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

3. That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.
4. The County Flood Risk Team advises:
 - Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
 - Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
 - The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
 - Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
 - Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface

water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

5. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.
6. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.
7. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
8. 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.
9. The Highway Authority recommends that the first 5m of the proposed access road should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
10. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at www.south-derbys.gov.uk) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
 - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).
- Further advice can be found online at www.south-derbys.gov.uk or by calling (01283) 228706.

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

Item **1.4**

Ref. No. **9/2018/0674/TP**

Applicant:
Mr Martin Buckley
Civic Offices South Derbyshire District
Council Civic Way
Swadlincote

Agent:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
Derbyshire

Proposal: **THE FELLING AND CROWN LIFTING OF 4 TREES COVERED BY**
 SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION
 ORDER NO. 195 ADJACENT TO GEORGE STREET CHURCH
 GRESLEY SWADLINCOTE

Ward: **Church Gresley**

Valid Date **21/06/2018**

Reason for committee determination

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

Site Description

These mature lime trees are situated in the front gardens of Council managed properties. They sit to the fore of the respective hosts; adjacent to the public highway and as such are highly prominent. These, along with similar trees on privately owned land, help create a tree lined 'avenue' character.

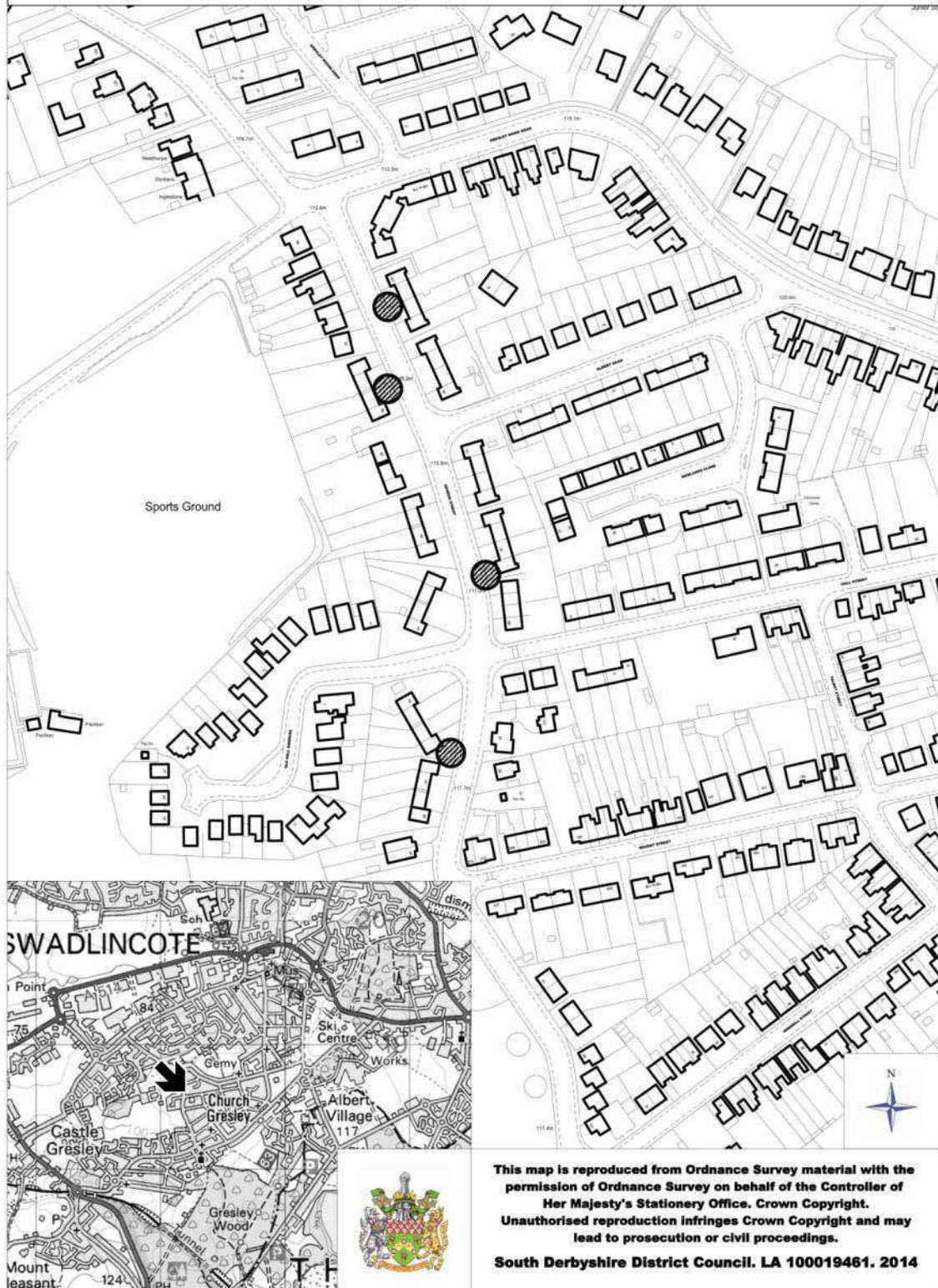
Proposal

The proposal is to crown lift the lower canopy of the 4 trees (identified as trees 5, 6, 7 and 8) away from passing vehicular traffic. Other works include crown cleaning, removing all defective material or interlocking branches from within each respective canopy and removing epicormic growth, where applicable, from their trunks. Further works (although these do not need express consent) including pruning the trees away from overhead telecoms wires.

Applicant's supporting information

The Council's Tree Officer has advised the works to the limes are urgently needed to reduce conflict with passing vehicles.

9/2018/0674 - George Street, Church Gresley, Swadlincote. DE11 9NZ



Planning History

TPO195 has been in force since 2002.

Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- 2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows).

National Guidance

- National Planning Policy Framework (NPPF) revised July 2018
- Planning Practice Guidance (PPG)

Planning Considerations

The main issues central to the determination of this application is whether the work is warranted given their protected status.

Planning Assessment

The trees do overhang the highway. Standard clearance in such a situation is normally 5m – this lessening the potential for conflict with passing high sided vehicles. Whilst the fantastic form of the trees would be modestly altered, their urban situation necessitates such intervention. Lime trees are particularly hardy to such work, however, and would regenerate. The other works detailed are simply prudent tree management and would lessen the chance of falling braches or disease over the coming years.

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 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).

07/08/2018

Item **1.5**

Ref. No. **9/2018/0579/TC**

Applicant:
Anna Hewlett
15 Potter Street
Melbourne
Derby
DE73 8DW

Agent:
Mr John Smithard
Eden Tree Care & Fencing Ltd
11 Bushwell Farm
Melbourne Road
Newbold Coleorton
Leicestershire
LE67 8JH

Proposal: **THE CROWN REDUCTION AND RAISING OF A SILVER BIRCH
TREE AT 15 POTTER STREET MELBOURNE DERBY**

Ward: **Melbourne**

Valid Date **29/05/2018**

The item is presented to Committee as the applicant is related to Councillor Jim Hewlett.

Site Description

The tree the subject of this notification relates to 1no. Silver Birch Tree located along the eastern boundary. The tree is located within the rear garden of Exchange House, a 3-storey detached Grade II Listed Building and situated within Melbourne Conservation Area.

Proposal

This notification is to reduce the crown height of the tree by 2m, width by 1.8m and raise the crown to 2m, the tree is protected by way its conservation area status only.

Applicant's supporting information

None

Planning History

None

Responses to Consultations

The Tree Officer raises no objection to the works.

9/2018/0579 - 15 Potter Street, Melbourne, Derby. DE73 8DW



Responses to Publicity

Melbourne Civic Society has no objections.

Development Plan Policies

The relevant policies are:

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

National Guidance

- National Planning Policy Framework (NPPF) revised July 2018
- Planning Practice Guidance (PPG)

Planning Considerations

The notification procedure allows the Council a period of time to assess the impact that would result from tree works, with the primary consideration being the amenity value the tree provides. In addition, there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Even if the tree's amenity value merits an Order, consideration must still be given as to whether it would be expedient to make one and consider other factors such as the health and lifespan of a tree, proximity to buildings or structures, proximity to living spaces, suitability for its location, etc.

Planning Assessment

The tree is large in height and size and offers some public amenity value, as although being within the rear garden, there are views of the tree along Potter Street as the tree is situated close to the boundary wall. The Tree Officer has recommended that the proposed works are not detrimental to the tree's long term health and is seen as good management of it. As such it is considered that the imposition of a Tree Preservation Order would be inappropriate at this time as the long term health of the tree is not considered to be under threat.

Recommendation

That **no objection** be raised to the proposed works subject to the following informatives:

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

07/08/2018

Item **1.6**

Ref. No. **9/2018/0716/TC**

Applicant:
Mr & Mrs James & Hilary Coyle
94 London Road
Shardlow
Derby
DE72 2GP

Agent:
Mr & Mrs James & Hilary Coyle
94 London Road
Shardlow
Derby
Derbyshire
DE72 2GP

Proposal: **THE RE-POLLARDING OF 5 NO. LIME TREES AT 94 LONDON ROAD SHARDLOW DERBY**

Ward: **Aston**

Valid Date **02/07/2018**

Reason for committee determination

The item is presented to Committee as the applicant is Councillor Hilary Coyle.

Site Description

The trees the subject of this notification relate to 5no. Lime Trees all located along the north-west boundary. The trees are located within the garden of Shardlow House, a 3-storey detached farmhouse which is Grade II listed and within Shardlow Conservation Area.

Proposal

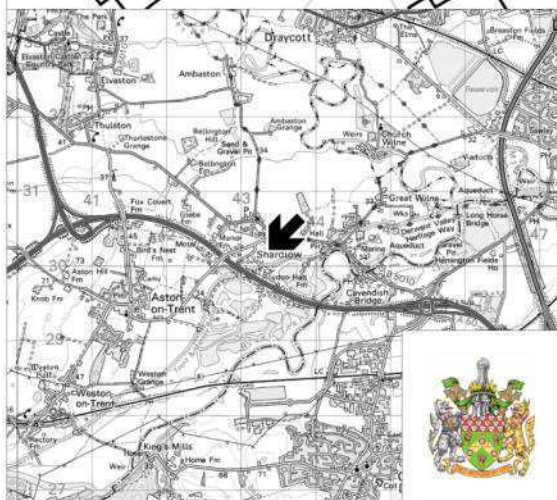
This notification is to re-pollard a line of 5 no. Lime Trees back to existing pollard heads. The trees are protected by their conservation area status only.

Applicant's supporting information

None

Relevant Planning History

9/1995/0043 Rebuilding of the boundary wall on the frontage – Approved June 1995 (along with accompanying listed building consent under 9/1995/0044).



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South Derbyshire District Council. LA 100019461. 2014

- 9/2001/0982 Installation of timber access gates and a pair of automated driveway gates and side panel – Approved December 2001 (along with accompanying listed building consent under 9/2001/0983).
- 9/2012/0862 Notification for tree works – No objection November 2012.
- 9/2017/0741 Notification for the felling of 1 Maple Tree and 1 Lime Tree – No objection August 2017.

Responses to Consultation

The Tree Officer has no objection

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

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

National Guidance

- National Planning Policy Framework (NPPF) revised July 2018
- Planning Practice Guidance (PPG)

Planning Considerations

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

Planning Assessment

The group of Lime trees run in a line from London Road, westwards to a point close to the rear wall of the property known as The Barn. The whole row of trees show evidence of having been pollarded previously. The Council's Tree Officer has advised that all of the Lime trees are worthy of a Tree Preservation Order as they are in good health and offer high amenity value, and has advised that a re-pollard of the Lime Trees is a management technique that will need to be undertaken regularly in order to maintain the long term health of the trees. As such it is considered that the

imposition of a Tree Preservation Order would be inappropriate at this time as the long term health of the trees is not considered to be under threat.

Recommendation

That **no objection** be raised to the proposed works subject to the following informatives:

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

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2016/1035	The Potlocks, Willington	Willington & Findern	Dismissed	Committee
E/2016/0178	The Potlocks, Willington	Willington & Findern	Dismissed	Delegated



Appeal Decisions

Site visit made on 11 June 2018

by Mr A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 09 July 2018

Appeal A and B refs: APP/C/17/3185562 and 3185563 Land adjacent to 45 The Potlocks, Willington, Derbyshire

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr William George Ibberson and Mrs Susan Elizabeth Ibberson against an enforcement notice issued by South Derbyshire District Council.
 - The enforcement notice was issued on 31 August 2017.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a metal palisade fence that exceeds 1 m in height located adjacent to the highway.
 - The requirement of the notice is to permanently remove the metal palisade fence and the resulting materials from the land.
 - The period for compliance with the requirements is 30 days.
 - The appeals are proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
-

Appeal C ref: APP/W/17/3184924 The Potlocks, Willington Derby DE65 6YA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr William Ibberson on behalf of Younger Homes (northern) Limited against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/1035, dated 4 October 2016, was refused by notice dated 22 March 2017.
 - The development proposed is two three bedroom dwellings.
-

Decisions - Appeal A and B

1. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

2. The appeal is dismissed.

Appeal A and B - Reasons

3. **Ground (c):** The nature of the building work involved in erecting the fence falls within the meaning of development. Deemed planning permission is granted by Article 3(1) to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) for the erection of a fence as detailed in Schedule 2, Part 2 - minor operations - Class A subject, of course, to limitations set out in paragraph A.1. Failure to comply with any of the physical criteria renders the development outside the scope of PD.

4. The evidence is that the metal palisade fence is 1.1 metre in overall height. It is set in from the kerbside by about 1 m and is visible from the highway. It forms a means of enclosure. Contrary to the appellants' arguments, I consider that fence is located adjacent to a highway and its overall height is not *de minimis*¹. The height exceeds the limitation set in Class A paragraph A.1, sub-section (a)(ii). Express planning permission is required for the erection of the fence: it has not been obtained. I find that the development constitutes a breach of planning controls. Ground (c) must fail.

Ground (a)

5. The main issue is the impact of the fence upon the character and appearance of the street scene.
6. The street scene is defined by a mix of house types mainly comprising detached and semi-detached dwellings. Soft and hard landscaped frontages dominate the street, and solid boundary treatments are not that uncommon. The site forms an open space located within a modern housing estate². To its north and west there are garages at no.43 and 45 The Potlocks. The public highway is situated to its south and east. Its undeveloped appearance adds visual interest to the street scene and the site is noticeable in views from the public realm, because of its location.
7. The metal fence, which is constructed from horizontal and vertical bars, encloses the entire site and draws the naked eye. It has a jarring effect because of its industrial-like appearance. The fence appears as an incongruous feature because of its design. The development is out-of-keeping with the locality's suburban character because of the fence's overall height and scale.
8. Class A, Part 2, Schedule 2 to the GPDO permits development comprising the erection of a fence adjacent to the highway, but it would be limited to 1 m in overall height. Given the layout of the appeal fence, the development visually detracts from the suburban layout and quality of the estate. I therefore attach limited weight to the fall-back argument.
9. Drawing all of the above points together, I conclude that the fence has a materially harmful visual impact upon the street scene. The other considerations do not outweigh this finding. Accordingly, the development conflicts with policies BNE1 of the South Derbyshire Local Plan Part 1 2016 (LP).

Ground (f)

10. It is plain from s173(3) of the Act that there must be a nexus between the specified requirements of the notice and the achievement, wholly or partly, of any of the purposes set out in subsection (4). From the notice as a whole it seeks to remedy the breach of planning controls involving the erection of a fence that exceeds 1 m in height located adjacent to the highway. It is necessary to consider whether the steps required are excessive (s174(2)(f)).
11. The appellants argue a fall-back position in that a 1 m fence could be erected without the need for express planning permission. They argue that they should be allowed to reduce the height of the metal palisade fence so that it complies, retrospectively, with the GPDO.

¹ Meaning that it is on too small a scale for the law to take account of it.

² Planning permission for the estate was granted in 1990 (ref: 9/0290/1152/F). The site was shown as open space on the approved plan 88/F60 4 B.

12. However, the fence is constructed from metal horizontal and vertical bars held together by means of bolts and fixings. There is no explanation as to how the height of the metal fence could be reduced. In my assessment, an alternative step to require the reduction of the fence's height is likely to be imprecise given the nature of the work required to reduce the fence's height. Such a requirement is likely to introduce some ambiguity in legal interpretation. Given the potential criminal liability that comes with a failure to comply with the notice, I find that outcome unacceptable.
13. On the specific facts and circumstances of this case, I do not consider that the advanced lesser step achieves the purpose behind the notice which is to remedy the breach of planning control by restoring the land to its condition before the breach took place. This purpose can only be achieved by full compliance with its requirements. I find that the steps required are not excessive. Therefore, ground (f) fails.

Appeal C – the s78 appeal

14. The **main issue** is the impact of the proposed development upon the character and appearance of the street scene and locality.
15. **Reasons:** The site is about 0.05 hectares in size. As I have said elsewhere, the site's open and undeveloped appearance makes a strong visual contribution to the layout of the estate, which reinforces its suburban quality. The site functions as open space. The proposal comprises two dwellings in a semi-detached arrangement. The external appearance of the new dwellings would be similar to existing properties. That said, however, I consider that the nature and scale of development would significantly undermine the site's function as open space.
16. The appellants argue that the site has not been adopted as public open space and it is in their ownership. A fence could be erected under permitted development rights thereby restricting access. Be that as it may, I consider that the development would reduce the wide gap between buildings thereby compromising the suburban design and layout of the estate.
17. I have taken into account benefits of the scheme including the site's location and accessibility to local services. The proposal would make a limited contribution to the local housing stock. Whilst there would be limited economic and social benefits arising from this housing proposal, drawing all of the above threads together, I find that the development would have a significant adverse visual impact upon the character and appearance of the street scene and locality. Accordingly, the scheme would conflict with policies BNE1 and INF9 of the LP.

Appeals A, B and C – conclusions

18. For the reasons given above, and having regard to all other matters, I conclude that Appeal A and B should not succeed. I have therefore upheld the enforcement notice and refused to grant planning permission on the deemed applications. In Appeal C, I conclude that the appeal should be dismissed.

A U Ghafoor

Inspector