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Our Ref: DS  
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Date: 25 May 2018

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 05 June 2018 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Member**

Councillor Tipping

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To receive the Open Minutes of the following Meetings:  
  
Planning Committee 10th April 2018 Open Minutes **3 - 8**  
  
Planning Committee 1st May 2018 Open Minutes **9 - 15**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **16 - 181**

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

- 6** The Chairman may therefore move:-  
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 7** To receive the Exempt Minutes of the following Meeting:  
Planning Committee 1st May 2018 Exempt Minutes
- 8** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.



PLANNING COMMITTEE

10<sup>th</sup> April 2018

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

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

**Independent /Non-Grouped Member**

Councillor Tipping

**In attendance**

Councillor Dunn

PL/176 **APOLOGIES**

Apologies for absence were received from Councillor Watson (Conservative Group) and Councillor Tilley (Labour Group).

PL/177 **DECLARATIONS OF INTEREST**

Councillor Stanton declared a personal interest in Items 1.2 and 1.3 by virtue of being acquainted with the applicant.

Councillor Southerd declared a pecuniary interest in Item 1.1 by virtue of being a County Councillor at the time the proposal was submitted to Derbyshire County Council and undertook to leave the Chamber whilst the Item was debated.

PL/178 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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



**MATTERS DELEGATED TO COMMITTEE****PL/179 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

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

Councillor Southerd left the Chamber at 6:05pm.

**PL/180 CONSTRUCTION OF A SINGLE CARRIAGEWAY ROAD WITH VERGES, CYCLEWAYS AND FOOTWAYS ALONG WITH THREE NEW ROUNDABOUTS AND ASSOCIATED INFRASTRUCTURE AND THE PARTIAL DEMOLITION OF WOODHOUSE BUSINESS CENTRE (WOODVILLE REGENERATION ROUTE PHASE 2) AFFECTING DERBY ROAD, SWADLINCOTE ROAD, WOODHOUSE STREET AND KILN WAY AND ACROSS LAND AT THE FORMER DYSON SITE OCCUPATION LANE WOODVILLE SWADLINCOTE**

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

The Principle Area Planning Officer presented the report to Committee informing of revisions required in the report and including the wording of the first Informative. The Officer updated Members that two further representations had been received during the consultation period which ended on 31<sup>st</sup> March 2018, one from the landowner questioning whether his land is required claiming no contact from the applicant and the second from a business in support of the application, but highlighting that the location of the road could constrain existing parking and storage area. The Committee was informed that although both matters would be for the County Council, the applicant had submitted evidence to show correspondence with the landowner and advised that dialogue would resume following the outcome of this Meeting. The Officer explained the proposed layout of the site highlighting the proposed traffic routing plan, footpaths, cycle ways, landscaping scheme and the site's inclusion in the Council's Local Plan.

Some local Members welcomed the proposal for redevelopment for employment and housing provision and the potential alleviation of traffic at the Clock Island roundabout and surrounding area. Councillor Dr Pearson, Ward Member for Midway, sought clarification on the site's potential impact on Woodville Business Centre. The Principle Area Planning Officer clarified that any potential loss of employment space in order to facilitate the route could be considered by the County Council during negotiations.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery) including the revision to the Informative 1.***

Councillor Southerd returned to the Chamber at 6:20pm

PL/181 **THE VARIATION OF CONDITION 19 OF PERMISSION REF. 9/2014/0740 (RELATING TO OUTLINE PERMISSION (ALL MATTERS RESERVED EXCEPT FOR ACCESS) FOR UP TO 400 DWELLINGS AND PROVISION OF NEW SCHOOL PICK UP/DROP OFF AREA, TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, PARKING AND ATTENUATION FACILITIES) ON LAND AT BROOMY FARM WOODVILLE ROAD HARTSHORNE SWADLINCOTE**

The Principle Area Planning Officer presented the report to Committee updating Members that Condition 19 required the inclusion of compliance to the approved method statement in regard to the filling works and an amended Informative. The Officer highlighted the history of the application, delivery of infrastructure and phasing of the development clarifying that Condition 19 related to the filling of the tunnel and the cutting and not to do with highway safety reasons.

Mr Paul Burton (applicant) attended the Meeting and addressed Members on this application.

Councillor Dr Pearson addressed the Committee raising concerns in relation to the delivery of the link road, potential impact on traffic, local residents and footpath route to Eureka Primary School from the proposed development. The Principle Area Planning Officer advised that an alternative route could be provided through funding contributions specified in the Section 106 Agreement relating to the upgrade of footpaths.

Clarification was sought and provided on the time required to complete the work to the tunnel, the reasons for the condition and the delivery of the link road.

***RESOLVED:-***

***That the variation of Condition 19 be granted as recommended in the report of the Strategic Director (Service Delivery), including the amended Informative and condition, with delegated authority to the Planning Services Manager to make amendments to the Deed of Variation.***

PL/182 **APPROVAL OF RESERVED MATTERS (IN SO FAR AS LAYOUT & APPEARANCE FOR THE SPINE ROAD FOR THE WHOLE SITE AND LAYOUT & LANDSCAPING OF PUBLIC OPEN SPACE AREAS FOR PHASE 1 ONLY) PURSUANT TO PLANNING PERMISSION REF: 9/2014/0740 ON BROOMY FARM WOODVILLE ROAD HARTSHORNE SWADLINCOTE**

The Principle Area Planning Officer presented the report to Committee explaining the phasing plan, layout, landscaping, the use of material from the site to fill the tunnel and provision of affordable housing as part of the Council's five-year supply.

Mr Paul Burton (applicant) attended the Meeting and addressed Members on this application.

Councillor Dr Pearson reiterated his concerns regarding provision of the link road and affordable housing, which were also shared by some Members of the Committee who further added that combined with the potential impact on residents and traffic in the area, they felt it was difficult to support the proposal.

Further clarification on construction traffic was sought and a suggestion for it to be routed to the part-filled road was made, in order to alleviate pressure points and also assist in compression of the ground. The Principal Area Planning Officer advised that this could be possible as part of the construction traffic routing plan cited under Condition 11.

Councillor Coe, local Ward Member, raised concern relating to the importance of timing of the works for this and other approved development in the area in order mitigate the impact on residents. The Officer suggested that an advisory note to Derbyshire County Council could request consideration of other committed developments when potential approval for works is granted.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery) advisory notes on timing, delegated authority on construction routing plan and filling of the cutting as early as possible.***

PL/183 **CHANGE OF USE OF LAND FOR TOURISM PURPOSES AND RETENTION OF A YURT AND A TIPI WITH ASSOCIATED SAUNA AND COMPOST TOILET STRUCTURES WITH PARKING AND HARDSTANDING AT LAND AT SK3221 7095 TICKNALL ROAD HARTSHORNE SWADLINCOTE**

It was proposed that this application be deferred for a site visit.

The registered speakers opted to return when the matter was rescheduled.

***RESOLVED:-***

***That the application be deferred to allow for a site visit to be conducted.***

PL/184 **DEMOLITION OF EXISTING DWELLING AND ERECTION OF TWO DETACHED DWELLINGS AT TREE TOPS TRENT LANE WESTON ON TRENT DERBY**

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

The Planning Services Manager presented the report explaining the history of the application, the current proposed layout of the site, its impact and that recommendation from the Tree Officer had been incorporated in the report.

Mr Mark Jones (applicant) attended the Meeting and addressed Members on this application.

***RESOLVED:-***

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

PL/185 **DEMOLITION OF EXISTING RESIDENTIAL PROPERTY (CHERRY COTTAGE) AND AGRICULTURAL BARN AND PROPOSED DEVELOPMENT FOR 385 RESIDENTIAL DWELLINGS (USE CLASS C3), FORMAL AND INFORMAL PUBLIC OPEN SPACES, STRUCTURAL LANDSCAPING, NEW ROADS, FOOTPATHS AND CYCLEWAYS, (2NO.) SITE ACCESSES AND ANCILLARY WORKS ON LAND AT SK2130 8875 SOUTH OF DERBY ROAD HATTON DERBY**

The Planning Services Manager presented the report to Committee.

***RESOLVED:-***

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

PL/186 **PROPOSED TREE PRESERVATION ORDER 482 – 52 MAIN STREET, NEWTON SOLNEY**

The Planning Services Manager presented the report to Committee.

***RESOLVED:-***

***That the Tree Preservation Order be confirmed as recommended in the report of the Strategic Director (Service Delivery).***

PL/187 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

***RESOLVED:-***

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be***

***disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

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

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

The meeting terminated at 7.30pm

COUNCILLOR MRS L BROWN

CHAIRMAN

PLANNING COMMITTEE

1<sup>st</sup> May 2018

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

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

**In attendance**

Councillor Billings

PL/188 **APOLOGIES**

Apologies for absence were received from Councillors Coe, Mrs Hall (Conservative Group), Dr Pearson (Labour Group) and Tipping (Independent / Non-Grouped Member).

PL/189 **MINUTES**

The Open Minutes of the Meetings held on 27<sup>th</sup> February 2018 and 20<sup>th</sup> March 2018 were taken as read, approved as a true record and signed by the Chairman.

PL/190 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations had been received.

PL/191 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/192 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

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

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

PL/193 **CHANGE OF USE OF LAND FOR TOURISM PURPOSES AND RETENTION OF A YURT AND A TIPI WITH ASSOCIATED SAUNA AND COMPOST TOILET STRUCTURES WITH PARKING AND HARDSTANDING AT LAND AT SK3221 7095, TICKNALL ROAD, HARTSHORNE, SWADLINCOTE**

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

The Planning Services Manager informed Committee that neither the pergola seen on site nor a wind turbine made reference to separately were part of the application being considered. Attention was also drawn to Condition 3 in relation to the alternative access being blocked off.

Mr Jon Imber (objector) attended the Meeting and addressed Members on this application.

The Planning Services Manager confirmed that sustainability had been considered, that policy does not rule out such sites and that there was no conflict with policy. Additionally, a demand for such locations and accommodation had been established.

Other Members raised comment or queries in relation to the access road, the location, proximity of neighbours, the application being a retrospective one, the apparent disregard for the planning process, the absence of any emergency or management plans, the fire pit, food burning stoves, permitted development rights and potential actions in relation to the recently erected pergola, all matters addressed by the Planning Services Manager.

A proposal to defer the application, to allow for further details to be requested, was not supported by Committee.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), also with delegated authority granted to the Planning Services Manager to add / amend conditions requiring a site management and emergency plan with particular emphasis on fire prevention.***

PL/194 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 45 DWELLINGS TOGETHER WITH OPEN SPACE AND LANDSCAPING ON LAND AT SK2430 7995, DERBY ROAD, HILTON, DERBY**

The Principal Area Planning Officer informed Committee that a response had been received from Natural England since the report was published, citing no objections and that a further objection had been received out of time, its contents common in theme to those already received. The Officer also

referred to a query made by the applicant regarding the commuted sum in lieu of affordable housing. References were also made to a query relating to Condition 3 and a request for delegated authority to enhance Condition 19.

Councillor Taylor left the Chamber at 6.40pm.

Mr Charles Cuddington (objector) and Mr Steve Lewis-Roberts (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Taylor returned to the Chamber at 6.45pm.

The Principal Area Planning Officer confirmed that the Planning Officers had had sight of the legal opinion provided by the objector, noted as pre-dating the Planning report, as published, by a month. The view was stated that officers at the Council and other statutory bodies had provided their input to the report, based on their professional knowledge and local awareness of the location. It was added that the housing was required, in accordance with its allocation in the Local Plan, in order to meet housing supply numbers.

Councillor Mrs Patten addressed the Committee as Ward Member for Hilton, expressing the concerns of residents, namely in that they feel that Hilton has become saturated with development and its infrastructure is struggling. The feasibility of installing a pedestrian crossing in what was currently a 40mph zone was also queried, along with the possibility of providing allotment land in the space formerly allocated as a play area. The Principal Area Planning Officer, in referencing the crossing, confirmed that Section 106 monies were being secured to finance a crossing, but that its implementation was a County Council Highways matter.

The aspirations of the Wildlife Trust were queried, in particular in relation to alternative hedgerows. The Officer expressed a view that this may be a realistic proposition, to gain monies for re-planting.

Councillor Billings addressed the Committee as another Ward Member for Hilton, relating to concerns regarding local over-development outpacing infrastructure development, traffic volumes, the lack of guarantees around the County Council granting a Traffic Regulation Order enabling the installation of a lower speed limit / crossing, the loss of a play area in the plan, hedgerows, parking, the proposed ratio of parking spaces to house sizes in bedroom terms, garages being converted into living accommodation and bodies such as the NHS not claiming against the Section 106 funds.

The Principal Area Planning Officer stated that the Council can only pursue Section 106 sums, not determine that external bodies make claims against the funds. In relation to the pedestrian crossing, it was confirmed that the County Council had deemed it likely to be installed, subject to funding, which was being accommodated. The play area had been removed as its location was not considered entirely suitable. The hedgerows had not been defined as ancient and would, in any event, be replaced. In relation to garage conversion, it was confirmed that a withdrawal of permitted development rights could not be applied to the whole site, nor the imposition of spaces per bedroom ratio,



both issues that could be considered in specific areas, if required, at the reserved matters stage.

It was stated that successive governments had removed the link between parking spaces and bedrooms, that the County Council would most likely impose a speed limit reduction / crossing if the finance was available and that, whilst play areas were needed, the proposed area had not been ideal in this instance. Another Member drew attention to Condition 19, stating that whilst it dealt adequately with flooding matters in the drainage scheme, it did not, he felt, sufficiently address health and safety matters in an urban location and suggested that the condition be enhanced to include the CIRIA guidelines. The Principal Area Planning Officer responded that this could be achieved via an informative, as the health and safety legislation was already in existence.

**RESOLVED:-**

- A. That delegated authority be granted to the Planning Services Manager to finalise the affordable housing contribution per dwelling and negotiate further the destination for open space, built facilities, sports facilities contributions and pedestrian crossing, along with negotiating and securing a sum for biodiversity offsetting (for hedgerow loss), and subsequently complete a Section 106 Agreement to secure these and other contributions as set out in the report. It was also agreed that delegated authority be granted to enhance Condition 19 and that an informative be attached relating to health and safety matters associated with the drainage scheme; and***
- B. Subject to A above, that planning permission be granted as recommended in the report of the Strategic Director (Service Delivery).***

Abstention: Councillor Mrs Patten.

Councillor Mrs Patten left the Chamber at 7.20pm.

PL/195 **OUTLINE APPLICATION FOR THE DEVELOPMENT OF SITE FOR B2/B8 UNITS, EACH UNIT PROVIDING NO LESS THAN 15,000SQM OF FLOOR SPACE WITH ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL ON LAND TO THE NORTH OF DOVE VALLEY PARK, PARK AVENUE, FOSTON, DERBY**

The Principal Area Planning Officer updated Committee with revisions to the report, namely that references to dwellings should have been to units (Condition 22); that more strategy had been proffered in relation to site drainage, the pond now increased to twice its initial proposed size; current details relating to Phases 1 and 2, to be addressed via delegated authority. Amendments to Conditions 3, 16 and 17 were also relayed to enhance the drainage of the site. It was also suggested that an informative relating to health and safety matters associated to the drainage scheme be attached.

Councillor Mrs Patten returned to the Chamber at 7.30pm.

The Chief Executive emphasised the success of Phase 1 of the development and that Phase 2, comprising larger units, would lead to greater investment, employment and economic gains for the District.

Councillor Billings addressed the Committee as Ward Member for Hilton, raised concerns made known to him relating to increased noise from the site, in particular from the lorry park, the potential for open water to attract more wild birds and the risk of avian flu being transferred to stock at local poultry farms, along with flooding issues surrounding the Watery Lane area. The Councillor also commented on the planting scheme located by nearby residences, to which the Principal Area Planning Officer confirmed that this aspect already had permission in place, due for implementation.

**RESOLVED:-**

- A. That delegated authority be granted to the Planning Services Manager to negotiate the bus service provisions as set out in the report and subsequently complete a Section 106 Agreement to secure the agreed scheme and associated financial contribution, and the Travel Plan monitoring and (if possible) biodiversity offsetting contributions. Amendments to Conditions 3, 16, 17 and 22 were agreed, as was the attachment of an informative relating to health and safety matters associated with the drainage scheme; and***
- B. Subject to A above, that planning permission be granted as recommended in the report of the Strategic Director (Service Delivery).***

PL/196 **THE ERECTION OF 8 NO HOLIDAY CABINS ON LAND AT SK2923 5475, SHADES FARM, BRETBY, DERBY**

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

The Planning Services Manager informed Committee that Condition 11 was to be enhanced to accommodate planting near the access road and that Condition 9 addressed concerns regarding materials and finishing.

Councillor Billings left the Meeting at 7.45pm.

Mr Brian Mullin (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Stanton addressed the Committee as Ward Member for Repton, stating that he felt the proposed screening was suitable and that the application would be an asset to the area.

Members commended the site for tourism purposes, but raised concerns regarding the removal of established hedging, albeit for greater visibility, in addition to the level of proposed screening at the south-west end near the

garden centre. Further comments regarding drainage provision and waste treatment were made, as well as, given the open countryside location, that night lighting should be low-level / downward.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), including enhancements to the conditions relating to landscape screening. It was also agreed that an informative be attached relating to health and safety matters associated with the drainage scheme.***

PL/197 **THE ERECTION OF A SINGLE DWELLING AND DETACHED GARAGE TO THE REAR OF 6 MILLFIELD STREET, WOODVILLE, SWADLINCOTE**

Mrs Angela Tamblyn (applicant) attended the Meeting and addressed Members on this application.

Members raised comments or concerns regarding back garden development, property size, its design in the locality, visual impact, the actual detail of local concern and the use of delegated powers.

A query was also raised as why previous case officer advice appeared to be contrary to the final recommendation. The Planning Services Manager stated that the scale and character of the design had always been cited during discussions, but never adequately addressed.

***RESOLVED:-***

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

Abstention: Councillor Mrs Coe.

PL/198 **PLANNING AND OTHER APPEALS**

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

9/2017/0194	Askew Lodge, Milton Road, Repton
9/2017/0845	Ivy Cottage, Boggy Lane, Church Broughton
9/2017/0845	Bretby Hollow, Newhall, Swadlincote

PL/199 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

***RESOLVED:-***

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be***

***disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**MINUTES**

***The Exempt Minutes of the Meetings held on 27th February 2018 and 20th March 2018 were received.***

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

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

**DOLES LANE, FINDERN, DERBY, DE23 6RH (Paragraph 2)**

***Members approved the recommendation in the report.***

The meeting terminated at 8.10pm.

COUNCILLOR MRS L BROWN

CHAIRMAN

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

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/1191	1.1	Etwall	Etwall	19
9/2018/0039	1.2	Aston-upon-Trent	Aston	47
9/2018/0322	1.3	Hilton	Hilton	65
9/2018/0256	1.4	Hilton	Hilton	76
9/2018/0269	1.5	Ticknall	Repton	86
9/2018/0289	1.6	Ticknall	Repton	100
9/2017/0524	1.7	Melbourne	Melbourne	102
9/2017/0525	1.8	Melbourne	Melbourne	115
9/2017/0887	1.9	Drakelow	Linton	119
9/2017/1401	1.10	Woodville	Woodville	129
9/2017/0767	1.11	Swadlincote	Swadlincote	139
9/2018/0239	1.12	Swadlincote	Repton	149
9/2017/0786	2.1	Osleston	Etwall	159

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.**        **9/2017/1191/OS**

**Applicant:**  
**Providence Land Ltd**  
**c/o Agent**

**Agent:**  
**Howard Sharp and Partners LLP**  
**79 Great Peter Street**  
**Westminster**  
**London**  
**SW1P 2EZ**

**Proposal:**    **OUTLINE APPLICATION (ALL MATTERS RESERVED FOR FUTURE APPROVAL) FOR RESIDENTIAL DEVELOPMENT FOR UP TO 50 DWELLINGS WITH OPEN SPACE, DRAINAGE AND ASSOCIATED WORKS ON LAND AT SK2730 1591 EAST OF EGGINTON ROAD AND NORTH OF JACKSONS LANE ETWALL COMMON DERBY**

**Ward:**           **Etwall**

**Valid Date**    **14/11/2017**

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

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

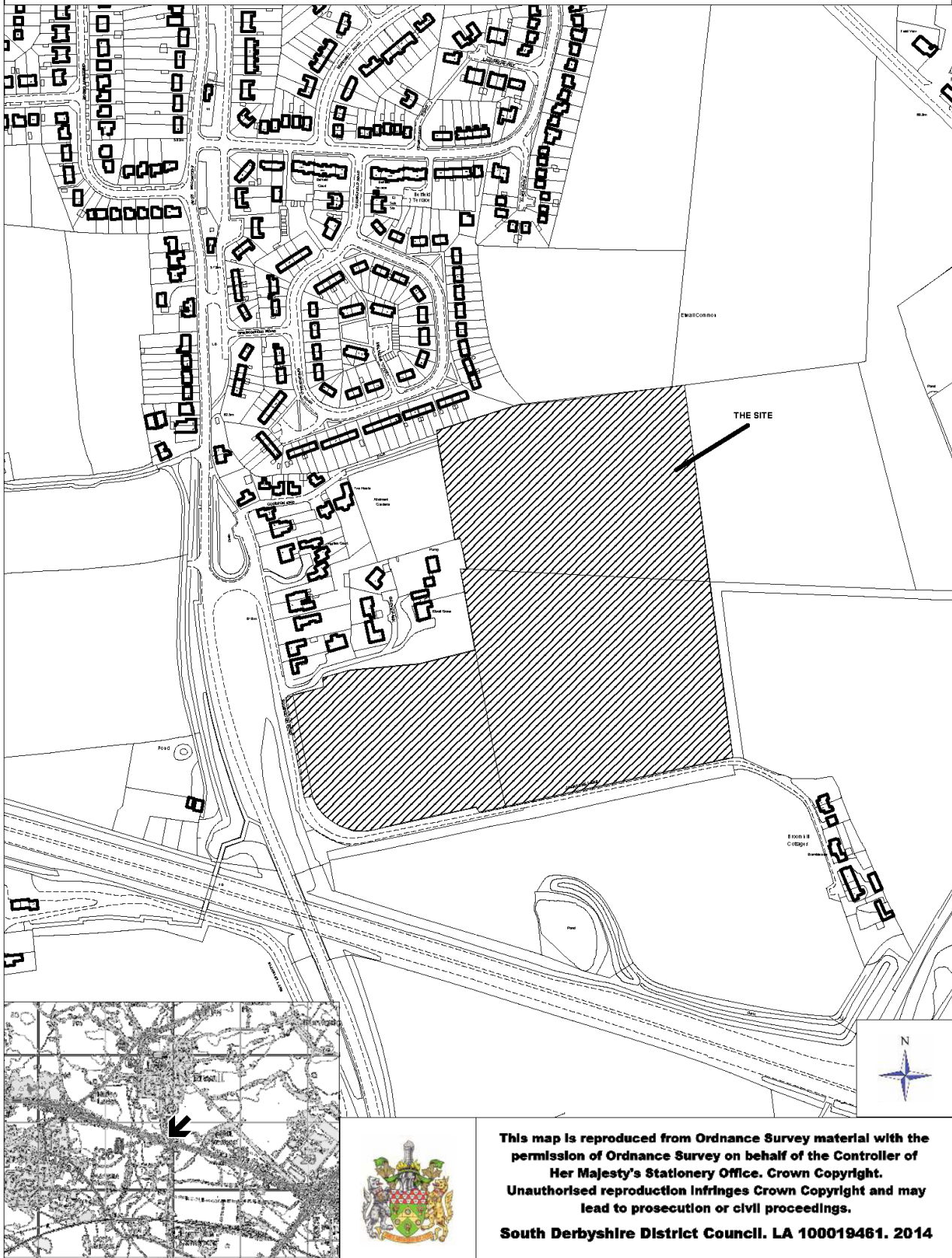
#### **Site Description**

The site comprises approximately 8.6 hectares across three arable fields forming an L shape around the south and east of Jacksons Lane. It is relatively flat, with a gentle fall from north to south (northern field) and from north-east to south-west (southern fields). There are mature hedgerows along much of the perimeter along with scattered trees present in the hedgerows and self-seeded in the field margins. Some of these trees are protected by way of Tree Preservation Orders (TPOs). Jacksons Lane runs adjacent to the southern and western boundary of the site, connecting to Egginton Road. There is a mature tree belt south of Jacksons Lane (also protected by the TPO) before further arable land and the A50, running east to west – beyond a landscaped bund in part.

There are allotments and existing dwellings immediately to the north-west on Common End, Grove Park and Springfield Road; along with the Bloor Homes development to the north, accessed from Willington Road. The site is within the settlement confines for Etwall which has a range of local services and facilities, including schools (both secondary and primary), a leisure centre, a library, pharmacy, restaurant and post office. The site is not subject to any other statutory or non-statutory designations.



9/2017/1191 - LAND EAST OF EGGINTON ROAD & NORTH OF JACKSONS LANE, ETWALL COMMON, DERBY, DE65 6NS





## Proposal

The application is made in outline with all matters of access, layout, scale, appearance and landscaping reserved, and proposes the erection of up to 50 dwellings as a mix of open market homes. The scale of development, whilst a reserved matter, is indicated to be largely two storeys in character, with some 2.5 storey housing. Affordable housing is to be provided by way of an off-site affordable housing contribution. A significant proportion of the total area would be given over to green spaces, amounting to around 20% of the site.

The site would be delivered in three 'phases' of differing density, split by the existing hedgerows between the fields. Phase A (the south-western field) would provide for the site access, main drainage pond, public open space and possible noise bund, along with 8 dwellings. Phase B (the south-eastern field) would provide for 20 dwellings, further Sustainable Drainage Systems (SuDS) and part of a north to south footpath link between the Bloors Site and Jacksons Lane. Phase C would provide for 22 dwellings, the balance of the footpath link, as well as a further east/west footpath to connect with the allotments.

## Applicant's supporting information

A Design & Access Statement (DAS) is submitted in support which analyses the site constraints and opportunities and outlines the broad principles of the development. It highlights the location and availability of services and facilities in the village and surrounding area, including other settlements. In arriving at a design solution for the site, it is explained how the physical and social context has influenced the design in conceptual terms and informed the illustrative layout. The DAS confirms the applicant's commitment to the delivery of a high quality development that is sensitive to the local context, and presents a low density and rural form of development. The proposals aim to create a housing scheme which is appropriate to the nature and setting of the site, whilst the layout and design of the scheme would be such that it supports crime prevention and community safety.

The Planning and Sustainability Statement sets out how the proposed development is considered to be acceptable in planning terms. It is noted that the site is located where the principle of growth has been accepted in the adopted Local Plan and its evidence base, with the Part 1 document proposing development of a range of scales on appropriate sites in and around Key Service Villages, such as Etwall, whilst the Part 2 document specifically allocating this site. The site is considered to have no physical, environmental, access or ownership constraints and is potentially suitable. A sustainability appraisal demonstrates the proposal constitutes sustainable development that would deliver economic, social and environmental benefits by making a significant contribution to housing land supply and by providing a range and mix of house types. It is considered the site is in an accessible location in relation to facilities in Etwall and bus services to nearby settlements. The proposal would provide housing in ways that would not harm the local landscape, is sensitive to its location and would be able to respond positively to the distinctive character of the area. It is also advanced that the site has a low probability of flooding and can be developed without increasing flood risk elsewhere; it would provide appropriate amounts of green infrastructure resulting in public open space, sustainable drainage

and improvements in biodiversity; it would result in appropriate financial contributions to support local services and infrastructure; and the development would qualify for a New Homes Bonus over a six year period which can be used to benefit the local community. It is argued that as the site is surrounded by built development and mature landscaping, the visual impacts would be very limited; and any such harm does not significantly and demonstrably outweigh the benefits set out above.

A Statement of Community Involvement documents how the applicant has engaged with the local community and other key stakeholders. As the application does not include details of access, scale, layout, appearance or landscaping, it is proposed to work up the reserved matters in consultation with the local community, taking account of comments made on the submitted outline material including the indicative access and illustrative layout. A public consultation event was also held at the Frank Wickham Hall in August 2015. Since this event, the proposals have evolved considerably and the proposals respond to the constraints of the site and local housing need.

A Transport Assessment (TA) has reviewed the existing situation on the local highway network, existing access to sustainable modes of transport, current traffic Flows, forecast traffic growth and road safety. Vehicular trip generation has been established under standard methodology. Traffic movement around the village has been considered, and a trip distribution and assignment exercise has been undertaken based on most recent census data.

The impact on the Egginton Road/Old Egginton Road junction has been assessed and it is considered there would be no delay at this junction caused as a result of the proposals. Improvements would be made to the carriageway and footpaths on Jacksons Lane/Old Egginton Road to accommodate safe and suitable access to the site. The traffic generated is also unlikely to have any material impact on the local highway network.

An Addendum to the TA demonstrates the site access can be designed in accordance with the 6C's Design Guide, carrying a width of 5.5m, 2m footways and junction radii of 6m (supported by a swept path diagram to demonstrate that service and delivery vehicles can satisfactorily enter and exit the site). Visibility sightlines can also be achieved in line with the Design Guide. The Addendum also addresses comments from County Highways who deemed it necessary to improve the Egginton Road/Old Egginton Road junction. Egginton Road has a 50mph speed limit which requires visibility sightlines of 160m in accordance with the 6C's Design Guide. The existing layout currently has 47m sightlines, which is substandard. Due to the intensification of the junction, improvements are proposed which achieve 101m to the south and 141.7m to the north. Coupled with a speed survey which indicated an 85<sup>th</sup> percentile speed of 40mph northbound and 49mph southbound, and the Manual for Streets (MfS) calculation, the proposed visibility splays are deemed to be acceptable. A Stage 1 Road Safety Audit (RSA1) has also been undertaken which finds there to be no material increase in risk to road users arising as a result of the works as proposed.

A Flood Risk Assessment (FRA), including a Surface Water Drainage Strategy finds the site falls entirely within Flood Zone 1. The nearest watercourse is Etwall Brook, located 0.5km to the west of the site. There are two ponds located outside the site

boundary. All of the three fields are drained by a network of ditches which in turn drain to an existing ditch along the western side of the original Egginton Road. The only risk of flooding on the site is from pluvial sources, but this is considered as a very low risk. There are known local sewer flooding issues elsewhere in Etwall but these do not threaten the site itself and are remote from likely discharge routes to the local sewage works for flows generated by the proposed development. Surface water and foul water sewers run along Egginton Road and on Springfield Road, to the northwest. Surface water is intended to discharge off-site via the existing ditch network, with the intended drainage strategy utilising Sustainable Drainage Systems (SuDS) based chiefly on attenuation as ground conditions and discharge constraints permit. The SuDS would be sized to manage and convey the site run-off under a 1 in 100 year plus climate change event, accounting for 40% increase/urban creep.

An Ecological Phase 1 Habitat Survey indicates there are no sites of international nature conservation interest within 2km of the site, although the Hilton Gravel Pits Site of Special Scientific Interest (SSSI)/Local Nature Reserve (LNR) lies some 1.6km west of it. There are also several non-statutory wildlife sites, these being Etwall Railway Pond, Toyota Balancing Ponds and Mickleover to Egginton Greenway (all Local Wildlife Sites (LWS)); and Elm Tree Farm Meadow, Lucas Lane Pond and Egginton Common Carr (potential LWS).

The site comprises three arable fields with rough grassland margins and hedgerows with trees. A narrow mixed woodland compartment lies along part of the eastern and southern boundaries. The site as a whole is not considered to be of sufficient intrinsic ecological value to warrant whole-scale protection from development; the majority habitats affected being common and widespread, and are considered to be of low intrinsic biodiversity value. The Survey includes mitigation measures for Great Crested Newts (GCNs), reptiles, birds and bats. The predicted negative impacts of the development are low and care would need to be taken to mitigate harm to protected species such as GCNs or nesting birds.

The Habitat Survey is supported by a Bat Survey and Bat Tree Climbing Report. The Bat Survey finds at least five species of bat occurring locally, 66% of which were *Pipistrellus* species bats – the majority being common pipistrelle. Other species were recorded at relatively low levels of activity. The transect surveys recorded more activity at hedges and tree lines than in the centre of fields, and of these the southern hedgerows may be the most important within the survey area. Bat roosts may be present close by, with brown long-eared bat, common pipistrelle, *Nyctalus* and *Myotis* bats all recorded close to their typical roost emergence times. The Climbing Report however found no bat roosts on site and whilst several trees remain suitable for roosting, these can be protected as part of the scheme. The

The Habitat Survey is also supported by a GCN Survey. GCNs were only recorded in one of the three ponds surveyed – this being on the Toyota site some 450m to the east. No other amphibians were recorded during the surveys. A data search also recorded GCNs at another pond within the Toyota site, which is monitored by the Wildlife Trust. Overall, given the site habitats, distance to ponds and the size of the population; impacts are expected to be low. Although the development would result in the loss of some terrestrial habitat in the vicinity, impacts are likely to be very small in the short term and there are ample opportunities within the scheme to provide

compensation and enhancement following current best practice guidelines. Careful timing and control can avoid the need for a Natural England licence.

A Tree Survey surveys the existing tree and hedgerow cover on the site, finding there is a mix of category A, B and C trees across it – the higher quality trees tending to be in groups adjacent or bordering the site.

The Landscape & Visual Impact Assessment (LVIA) notes the site's landscape character is considered to be of good quality due to it being representative of the character type. The site context has a typical field pattern with arable fields, set within rolling topography with mature hedgerows and field trees. However the site has been assessed as having an ordinary landscape value, based on its proximity to development and lack of defining characteristics. The landscape sensitivity of the site was reached by looking at its ordinary value and low susceptibility to change, leading to a conclusion that the sensitivity of the site was low, whilst the landscape of the site is one that could be easily replaced or substituted. Looking at the site's sensitivity against its quality and value, the landscape effect of the proposed development is considered to be a minor/moderate adverse effect. There are views towards the site from various locations in the area. Views likely to experience the most significant impact in the short term are from roads close to the site's southern and eastern boundaries. To the north, Etwall Grove is identified as being a particularly sensitive receptor. The retention of hedgerows, hedgerow trees, and additional planting as part of mitigation within the site would help soften the view. Despite there being a number of viewpoints with highly sensitive receptors further from the site, the relatively flat nature of the topography, and intervening vegetation means that the site is largely screened from longer distance views, principally by hedgerows and mature trees around the site. Residences to the north of the site on Springfield Road and on the new development off Willington Road would have a high visual sensitivity to development, but boundary planting and the proposed landscape buffer would provide some mitigation. Mitigation should include the retention of existing trees and hedgerows where possible, especially along the eastern and northern boundaries; built form and hard landscape materials should consider the local landscape character especially along the roof lines, roofing colour and material choice; hedgerow and tree planting should be consistent with the existing character and pattern of species; and allocation of spaces for play should be considered for each of the development areas within the site.

A Historic Environment Desk Based Assessment establishes that no designated heritage assets are present on or close to the study site. Of those identified in the wider study area, the development would not result in any harm on their significance or associated setting. The Assessment identifies a high potential for late Prehistoric activity, confined to the buried remains of a probable Iron Age livestock enclosure, sited within the northern part of the site. A geophysical survey and subsequent archaeological evaluation has confirmed a low/nil potential for archaeological deposits of all periods for the remainder of the site. Construction of the development would impact upon these buried assets of archaeological interest, but a programme of archaeological mitigation prior to development, comprising the excavation of the enclosure footprint and of a suitable surrounding buffer, would be proportionate.

A Minerals Safeguarding Report notes there are three types of superficial deposit on the site. The Egginton Common sand and gravel and the glacial Head are very small deposits and of no commercial value. The Etwall Sand and Gravel Member comprises river terrace sand and gravel and is shown to be too thin to be of commercial use or value. Most of the sand and gravel deposit is already indirectly sterilised by existing residential development. Consequently it is not considered that the sand and gravel is an economically workable deposit and the proposed development would not be contrary to policy MP17 of the Derby and Derbyshire Minerals Local Plan.

A Noise Assessment considers the noise impacts from road traffic noise on the future occupants of the development. It has been identified that much of the development would not naturally achieve the internal noise criteria with windows open. Noise mitigation measures are recommended, including the internal layout of houses being designed to minimise the number of habitable rooms facing towards the A50; a further noise bund within the south-western corner of the site (adding to the existing 3m high bund adjacent to the A50, which would have a beneficial effect on the wider local noise environment; the southern-most line of housing having a continuous building line or environmental noise barrier constructed as a garden boundary; and use of double glazing with an alternative means of ventilation. It is noted that the predicted internal noise levels are not high in comparison with noise levels in many urban areas, and with these measures the development would achieve compliance with the noise level criteria given in BS8233 for the daytime and night-time periods.

A Utilities Report has looked at the feasibility of water, electricity, gas and telecommunications supplies. There are local networks for gas, power, water and sewers. No diversion of services is expected to be needed except for possible lowering of BT cables where the new road access is proposed off Old Egginton Road. No information on specific network capacities to serve the proposed development is currently available. Pumping of sewage flows may be needed to overcome differences in level between an on-site sewer system and the existing sewer.

## **Planning History**

9/2015/0759    Erection of up to 98 dwellings with associated public open space and sustainable drainage – withdrawn March 2016

The Bloor Homes site to the north has consent for up to 199 dwellings by way of outline permissions ref. 9/2013/1040 and 9/2015/0354; with reserved matters subsequently granted under 9/2015/0555 and 9/2016/1248. A further permission for 18 dwellings was granted under 9/2016/1216.

## **Responses to Consultations**

The County Highway Authority notes concerns were raised under the previous application in relation to substandard visibility available at the junction of the old Egginton Road ('Old Egginton Road') and the new section of Egginton Road in the southerly direction. South of the junction, the adopted highway on the eastern side of



the new section of Egginton Road extends to a 2m grassed margin. East of this margin the land is under the ownership of Highways England and does not form part of the public highway. As such, it is not deemed to be controlled land available for use to improve visibility. As the proposal would result in an increase in the use of the substandard junction, without improvements to provide the appropriate visibility, that previous proposal drew objection on highway safety grounds. The current Transport Assessment provides further detail relating to the visibility requirement and a speed survey carried out. When taking the measured speeds and proposed road layout indicated in the supporting technical note, it is apparent that a safe and suitable means of access to the site can be achieved. Therefore, there are no objections subject to conditions being included to (amongst other things) ensure adequate access and site storage needs during the construction phase, securing of the access works at Egginton Road, and design of the layout at reserved matters to be in line with the 6C's Design Guide and provide for adequate parking provision.

Derbyshire Wildlife Trust notes the various studies and surveys provided with the application. Following further survey work for Great Crested Newt (GCN), the results suggest the presence of a very low population of great crested newts in the area, although not on this site. They consider the proposed mitigation measures outlined to be acceptable and a condition should be attached. Although no direct evidence of bats has been recorded in the trees on and adjoining the site, some were considered suitable to support bat roosts. It is however understood that the design of the scheme will respect the location of these trees in order to avoid any impacts. If the scheme was to change, and the trees with roost potential require removal, then further survey work would be required. As long as the development is carried out in accordance with the reasonable avoidance measures for reptiles, as outlined in the Habitat Survey, then no further survey work is required. This should be secured by a condition. The presence of skylark, a ground nesting priority species, has been assumed at the site. A condition should be imposed requiring the submission and approval of a skylark mitigation strategy, based upon a suitably binding agreement with a local landowner to provide four skylark plots. The layout also allows for the retention of ditches and provision of suitable access to manage retained hedgerows. This can be considered further under the reserved matters submission. The proposed biodiversity compensation and enhancement measures should also be secured by conditions.

The Environment Agency has no comments to make.

The Lead Local Flood Authority (LLFA) notes the applicant hasn't undertaken an appropriate ground investigation to support and inform the application, such that the application cannot presently demonstrate the runoff destination hierarchy. However, this can be required by way of condition. They also comment that the proposal projects an impermeable area of 3.44 hectares, requiring surface water storage volume of 1,650m<sup>3</sup> in order to mimic the existing greenfield runoff rate. The drainage strategy proposes to discharge surface water to an unnamed watercourse via an outfall under Jacksons Lane and the LLFA will require information demonstrating the ordinary watercourse(s) within land under the applicant's control has sufficient capacity to manage surface water on site up to and including the 1 in 100yr plus climate change event. It should also be confirmed which organisation will be responsible for the maintenance of attenuation features on site once the

development is completed, whilst a comprehensive management and maintenance schedule should be submitted – ensuring the efficiency of the drainage system for the lifetime of the development.

The County Minerals Planning officer has referred to the Minerals Safeguarding Report and agrees that the sand and gravel resource is not of sufficient quality to warrant its extraction.

The Development Control Archaeologist notes the Heritage Impact Assessment which includes geophysical and archaeological evaluation report on work carried out under the withdrawn application. The previous work identified a rectilinear enclosure which appears to relate to a later prehistoric (probably Iron Age) settlement, and is located in the northern part of the proposal site. This is potentially of regional importance and would be comprehensively destroyed under the current proposals for the site. Hence, if the proposal is to be approved, there is a need for a conditioned scheme of archaeological work to provide a full record of the archaeological remains.

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

The Environmental Health Officer seeks conditions to safeguard against noise/disturbance and dust during the construction phase. They also seek a condition to secure a strategy to mitigate noise from the A50.

The County Planning Policy Officer notes that the proposed development falls within the catchment for Etwall Primary School and would generate the need to provide for an additional 10 primary pupils. The school has a net capacity for 280 pupils, with 279 pupils currently on roll, and it is anticipated this will not change during the next five years. Recently approved residential developments within the catchment shows new development totalling 1,041 dwellings, which would generate an additional 208 primary pupils. The school would therefore not have sufficient capacity to accommodate the primary age pupils arising from the proposed development and £113,990.10 is requested to mitigate this impact.

The site is also within the John Port School catchment and the development would generate the need to provide for an additional 8 secondary and 3 post-16 pupils. John Port School has a net capacity for 2,070 pupils with 1,918 pupils currently on roll, and this is projected to increase to 2,015 during the next five years. Approved residential developments totalling 1,683 dwellings, already increase this demand by an additional 252 secondary and 101 post-16 pupils. The school would therefore not have sufficient capacity to accommodate the 7 secondary age and 3 post-16 age pupils arising from the proposed development and £193,293.06 is requested to mitigate this impact (£137,409.36 and £55,883.70 respectively).

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

The NHS Southern Derbyshire CCG has not responded to consultation at the time of writing, although recent indications are that the affected practice, Wellbrook in Hilton, would be affected. Officers will continue to make efforts to establish whether a sum is required to mitigate the effects of the development or not, and an update will be provided to Members at the meeting.

The Strategic Housing Manager accepts that provision of affordable housing would be off-site by way of a financial contribution arising from this development. This is further discussed below.

The Open Spaces and Facilities Consultant comments that the POS provides for good linkages around the site, although it is a little disappointing that the POS on the Alms Meadows development is not reflected into this site, along with an on-site Locally Equipped Area for Play (LEAP) being provided. An off-site contribution would most likely only serve to expand equipment choice on the adjacent LEAP and, given the size of that play area; it could overpopulate it with equipment. In terms of contributions towards sports and built facilities, the Frank Wickham Hall requires support for an identified project, whilst there are also plans with the Parish Council to improve sports pitches at Sandy Pits playing field. The Cricket Club are also seeking funds for improvement to their facilities.

## **Responses to Publicity**

Etwall Parish Council notes the site is identified in the Local Plan Part 2, but objects on the following grounds:

- i) the proposed footpath access to the allotments utilises a track and Common End necessary for vehicular access for allotment holders, and these are not public rights of way; whilst the allotments experience security problems which would be compromised further if the track is opened up to public access since there is no security fencing;
- ii) the proposed footpath access onto Jacksons Lane is where it becomes an un-adopted highway maintained by the residents of Broomfield Cottages, and there is no onward right of way from here apart from returning west along the narrow, unlit lane; whilst the route would provide security concerns for existing residents and an increase in unsociable behaviour in the area;
- iii) the southern boundary of the site is too close to the A50 and that, should houses be built in that location, residents would experience unacceptable levels of road noise pollution – supported by a private noise survey carried out on behalf of local residents which measured higher noise levels than the developer's submitted survey resulting in proposed mitigation measures being inadequate.
- iv) a noise survey for the application west of Egginton Road (ref. 9/2017/0294) recommends that houses should not be built at the same distance from the A50 as areas A and B, and it is questioned why the applicant's survey here gives a different recommendation for effectively the same location;
- v) a recent announcement by Highways England is noted, and this has the potential to designate the A50 to motorway standard with an associated potential to increase noise levels;



- vi) concern that pollution levels from the A50 on the site may be unacceptable;
- vii) Old Egginton Road must be upgraded to include a footpath connecting into the existing road.
- viii) the junction of Old Egginton Road with Egginton Road is onto a 50mph road with poor visibility, particularly to the south, and the development would at least double the traffic flow from the junction; and coupled with the adjacent junction for the development to the opposite side of Egginton Road there is the potential of a dangerous staggered crossroad junction;
- ix) there has been no consultation with Severn Trent Water as to the capacity of the existing sewers, and there have been major problems in the village with drains overflowing on numerous occasions;
- x) the SuDS provision for surface water provision needs a detailed assessment, and given the failed SuDS scheme at Old Station Close there is little confidence that an adequate solution would be provided;
- xi) water pressure is already poor in the village, particularly in properties close to the development, and building further houses will make this worse;
- xii) it has taken some people moving into the village 12 months to get registered with a doctor and there are no assurances that things will improve;
- xiii) both Etwall Primary School and John Port School are at capacity and with more properties being built in the catchment areas it will not only increase the number of pupils but also traffic movements into the village which can be severe at peak times;
- xiv) new residents of the Alms Meadow development have had difficulty in finding local school places for their children;
- xv) the recent withdrawal of the V2 service means that the nearest bus stop is now approximately 1km away from the site entrance;

Notwithstanding the above concerns, provided that the above footpath links are closed, there would be no objection to a link to the Alms Meadow development. The Parish Council also request, if the development is to be approved, whether consideration could be given to financial contributions to support the enhancement of the KGV playing field and the Frank Wickham Hall.

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

#### Principle of development

- a) loss of greenfield land;
- b) loss of agricultural/arable land;
- c) the village has already contributed enough towards housing supply;
- d) 5 year housing supply exists;
- e) loss of village identity;

#### Infrastructure/services capacity

- f) lack of capacity at the doctors surgery (Hilton);
- g) lack of capacity at the schools;
- h) the overall size of John Port School, with it likely to exceed 3,000 students to accommodate other developments in turn lowering teaching standards;

- i) the only bus route passes through the centre of the village, with the service revised/reduced recently;
- j) lack of provision of low cost housing to meet local needs;
- k) lack of services overall in the village;

#### Transport and highway safety

- l) access to Egginton Road/Jacksons Lane already hazardous, with poor visibility, and another 100 cars would make it unacceptable during commuting hours;
- m) speed of traffic over the A50 bridge and approaching the Old Egginton Road junction;
- n) a separate, direct access should be created;
- o) traffic levels in Etwall already high, with recorded incidents attributed to volume of traffic;
- p) assessment should consider other potential large scale developments in the area;
- q) roads in the village would need further speed control measures;
- r) parking difficulties in the village would be exacerbated;
- s) there is no public right of way through the allotments and the proposed route should not be permitted;
- t) access through the allotments might cause car/pedestrian conflict and discourage renewing of leases, as well as prevent manure, etc. from being delivered;
- u) footpath onto Jacksons Lane emerges at a blind corner;
- v) footpath onto Jacksons Lane would encourage anti-social behaviour;
- w) Jacksons Lane is unlit, narrow and without public footways;

#### Drainage/flood risk

- x) existing surface water pooling and runoff would increase, heightening the risk of flooding;
- y) the water table is already relatively high;

#### Heritage

- z) it would impact on the history of the village;
- aa) archaeological interest in the fields with a medieval roundhouse sited there;

#### Landscape and biodiversity

- bb) it would be unsightly and affects rural views;
- cc) loss of green spaces around the village;
- dd) it would have a negative visual impact on entering the village;
- ee) wildlife would be disrupted;
- ff) street lighting should be sensitive to bats;
- gg) maintenance of existing boundary hedge between existing residences and the fields;

### Noise and amenity

- hh) noise levels from the A50 impacting on living standards for occupiers;
- ii) the A50 should be resurfaced before any further development takes place;
- jj) noise assessment is out of date and should be repeated under the correct conditions;
- kk) previous noise assessment indicated no need for a noise bund, but one is now proposed on the basis of the same data;
- ll) residents' own noise survey shows noise levels exceed acceptable levels;
- mm) noise levels from the A50 are likely to increase;
- nn) noise levels could heighten the risk of developing dementia;
- oo) loss of dog walking routes;
- pp) noise impacts from users of proposed footpaths;
- qq) creation of light pollution;
- rr) increased air pollution;

A number of representations have been accompanied by a residents' noise survey carried out by MAS Environmental pursuant to the withdrawn application. At the time, the applicant provided commentary of that survey which is now assimilated into their Noise Assessment, as summarised above.

### Design and layout

- ss) the development does not fit with the character of Victorian and historic houses on Egginton Road and Jacksons Lane;
- tt) a route through the allotments would increase scope for criminal activity;
- uu) a route utilising Common End would increase scope for criminal activity;
- vv) the layout shown should be followed, as well as provision of planting;
- ww) housing density should not be increased;
- xx) no details of boundary treatments with existing properties;

### Other

- yy) who would wish to purchase an expensive property in this location;
- zz) who would maintain the public areas/open space;
- aaa) John Port School is in special measures; and
- bbb) occupiers of Broomhill Cottages purchased their properties due to the views;
- ccc) a route through the allotments would increase risk of dog fouling in this area;

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character)

and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

## **National Guidance**

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

## **Local Guidance**

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

## **Planning Considerations**

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

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

## **Planning Assessment**

### Principle of development

The site is allocated under LP2 policy H23(B) for 'around 50 dwellings'. The proposal seeks 'up to' 50 dwellings so an upper limit can be established at this stage. The site is also within the settlement confines for Hilton as set out under LP2 policy SDT1 and the quantum of development is in line with the strategy for housing growth, as facilitated by policies S1, S4 and H1 of the LP1. The housing delivered on this site would go towards supporting the continued delivery of a 5 year housing supply.

### Access and highway safety

The County Highway Authority's response is set out above. The scope for access onto Old Egginton Road is accepted and this would be considered in further detail under the reserved matters submission. Conditions can also appropriately secure the control of the construction phase of the development. The layout, whilst indicative,

appears appropriate although it would need to accord with the County's design guide when the layout reserved matter is presented.

The access arrangements would also need to include off-site works to the junction of Egginton Road and Old Egginton Road. These would require a slight realignment of Egginton Road towards the west, with a corresponding movement of the give way line to Old Egginton Road. The radii of this junction would also be tightened to accord with current standards and slow traffic movements into and out of the junction from and to the nearside (southbound) carriageway. The result of these changes would allow for adequate emerging and forward visibility splays to be achieved within controlled land, addressing previous concerns relating to the intensification in the use of the junction. A similar change to layout would come about at the Old Egginton Road/Common End junction, with the existing footway adjusted and then extended south along the western side, and eventually the eastern side, of Old Egginton Road – towards the likely access point into the site. The Highway Authority are thus satisfied that safe and suitable access can be achieved and seek a condition to require the changes to the Egginton Road/Old Egginton Road junction at an early stage of the development.

Pedestrian movement from the site to nearby services and facilities, and to the site from the village, would be assisted by the new footway and crossing points along Old Egginton Lane, whilst the connection to the Alms Meadow development would provide a further alternative. The principle of residential development in this location has already been found to be sustainable in locational terms under the LP2. Whilst the concern in respect of the footpath connection to the allotments is noted, policy H23(B) seeks to secure this link. Nonetheless, a planning permission cannot overrule access rights across third party land and the applicant would need to properly explore the feasibility of this link before presenting the layout as a reserved matter application. The connection to the south-eastern corner of the site, towards Broomfield Cottages is, however, not objectionable given it would lead onto a public highway and offer a circular walk option back along Jacksons Lane towards Old Egginton Road – and again this is a policy requirement.

### Biodiversity impacts

In order to achieve access to the site and the main road through it, a number of hedgerows would be affected, as well as a ditch. However, suitable mitigation could be provided by way of the layout at the reserved matters stage, whilst the eventual design could be made to respect the existing features and retain them in public areas, as far as possible. Existing trees would be retained in the same manner. With the further survey work carried out in respect of GCNs and bats, as well as there being suitable means to protect, compensate and/or enhance habitat for other species, it is considered sufficient information regarding protected species has been supplied to enable an informed decision to satisfy both legislative and policy requirements.

### Drainage

There is no objection from the LLFA, despite the concerns raised about surface water flooding on or adjacent to the site. A mix of swales and detention ponds are

envisaged, and there is scope to utilise existing water features on the site. The relatively low density of the development is likely to assist in limiting the level of attenuation required. However, although the approach to surface water drainage appears appropriate in principle, it will need to be demonstrated prior to development commencing that infiltration is not possible – this being the first choice for disposal of surface water. Conditions can control this matter and ensure adequate details of drainage during the course of construction and the use of the development. There is no concern with the approach to foul drainage, with it a statutory duty for Severn Trent Water to accept foul flows and/or secure capacity improvements if necessary. The aspiration to reduce water consumption from new properties across the District under policy SD3 can also be secured by condition.

### Noise and air quality impacts

The issue here is not of noise generated by the development, which can be controlled by condition during the construction phase, but of the living conditions for prospective occupiers. The residents' noise survey is noted but this was originally received under the previous application, to which the applicant provided a rebuttal. The noise assessment as reported above has been adjusted to respond to these points, and has subsequently been scrutinised by the EHO who finds that the conclusions of the applicant's survey are appropriate – that mitigation can be secured which would achieve the necessary reduction in noise levels to ensure acceptable living conditions for occupiers.

A couple of representations raise concern that the additional traffic would increase air pollution. The development is of a relatively limited scale in terms of traffic generation such that it is not considered unacceptable impacts would come about.

### Visual impact

Views of the site are generally restricted to the immediate locality by the landscape setting and settlement edge, with it contained to the north and north-west by built development. To the south, other than Jacksons Lane, there is little opportunity to see the site due to the tree screen to the southern side of the lane, the planting adjacent to the A50, and a gentle slope in that direction – towards the Dove valley. The result is that the site is not particularly sensitive to visual change, with any views of the site generally appreciated against the backdrop of existing built form, or screened by boundary vegetation. The greatest impact would be on the visual receptors around the site and those using Jacksons Lane. However, landscape mitigation in the way of buffer planting, and the overall masterplan approach, seeks to retain and enhance existing boundary planting where possible and minimise the evidence of built form being introduced. It is agreed that, overall, the scale and form of the development would result in only limited change at a localised level.

### Heritage

The archaeological study work has identified a rectilinear enclosure which appears to relate to later prehistoric (probably Iron Age) settlement. This is located in the northern part of the site, close to the allotments. The Development Control Archaeologist notes that this could potentially be of regional importance and it would



be comprehensively diminished under the housing proposals for the site. However, it is important to note that this has not resulted in objection. Indeed, it is noted that the archaeological work finds that the enclosure may not be linked to a settlement, but instead a livestock enclosure. With these points in mind, it is considered the level of harm is less than substantial and that a scheme of further investigation and recording is appropriate.

### Layout and design

Policy H23(B) requires a number of criteria to be satisfied, and some are already discussed above. The main focus is for the site to be a 100% low density market housing development. The policy requires phase A to be no more than 4 dwellings per hectare (dph), phase B to be no more than 6 dph, and phase C to be no more than 8 dph. The indicative layout meets these principles, with the affordable housing contribution discussed below. The policy also requires a landscape buffer along the eastern edge of the site, an area clear of buildings south of Etwall Grove and no more than 3 dwellings on the Old Egginton Road frontage. Again, the indicative layout suggests these can be achieved. The indicative drawing generally presents a suitable layout, according with the principles of the SPD. Impacts on neighbouring amenity would be assessed in detail at a later stage, but it appears possible to comfortably satisfy the minimum requirements. The comments regarding the lack of a LEAP can be addressed by way of a condition specifying requirements for a reserved matters submission.

Consideration has also been given to whether a single or multiple developers would likely take this site forward, with the low density likely to discourage some of the usual housebuilders from showing an interest. The site would therefore likely encourage the Small to Medium Enterprises (SMEs), and even individuals wishing to construct their own home. A greater number of developers brings with it a greater range of design aspirations such that a mechanism would be required to ensure some 'unity' with the design of the wider site. A design code is therefore considered necessary if the site is sold to multiple developers, or marketed as individual serviced plots. This can be secured by way of a planning obligation, the trigger arising at the point of sale as opposed to at the reserved matters stage – the latter being an unreasonable requirement for multiple parties/individuals to create and coordinate this document.

### Affordable housing

Policy H23(B) requires an off-site affordable housing contribution to be made in lieu of on-site provision. Whilst this has not been calculated in detail at this time, similar assessment nearby in Hilton has recently indicated a value of between c.£40,000 and c.£45,000 per dwelling – totalling around £690,000 in lieu of 15 units on-site (the sum depends on the type of units usually required). It is recommended that this be calculated at the relevant time with the District Valuer involved in ascertaining the correct sum. This sum would be put towards the provision of affordable housing elsewhere in the area, recognising both the relatively good level of provision in recent times within the village, and also the opportunities for Council-led projects and/or boosting provision on less viable sites where there is a particular demand for affordable housing provision – including those tenants with specific needs.

### Infrastructure impacts

The site provides for two main areas of POS – that south of Etwall Grove and that along the eastern and northern boundaries. The latter provides connectivity to the POS on the Alms Meadows development and provides a more suitable location for a LEAP – an item which would be secured in detail under the reserved matters. Overall, the level of provision is likely to be adequate for the number of dwellings provided, and deliver wider benefits to the local community.

Financial contributions towards improvement of sports and built facilities affected would be secured, with the improvements at Frank Wickham Hall and to the sports pitches at Sandy Pits playing field both appropriate. The need to mitigate the pressure the development would create on education provision is clearly set out in the response from the County Planning Policy Officer. There is no concern in respect of pooling and CIL compliance. The planning obligations would need to be framed in a manner so to allow collection of sums irrespective of the manner in which the site might be delivered.

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

- Education: £113,990.10 towards primary provision at Etwall Primary School, £137,409.36 towards secondary provision and £55,883.70 towards post-16 provision – both at John Port School;
- Built facilities: contributions to off-site improvements, based on £122.80 per person (bedroom), towards improvements at Frank Wickham Hall;
- Sports facilities: contributions to off-site improvements, based on £220.00 per person (bedroom), towards improvements to sports pitches at Sandy Pits playing field;
- SuDS and on-site POS: subject to management regimes, and commuted sums if to be transferred to the Council or Parish; and
- Affordable Housing Financial Contribution: to be determined at a later stage, but likely circa £45,000 per dwelling (multiplied by 30% of the eventual number of dwellings provided).

If CIL compliant evidence is received by the CCG before the meeting, a contribution towards healthcare improvements will be added to the above list.

### Summary

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



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

## Recommendation

**A.** Grant delegated authority to the Planning Services Manager to complete a Section 106 Agreement to secure the contributions and obligations as set out in the report; and

**B.** Subject to B, **GRANT** permission subject to the following conditions:

1. This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and before any development is commenced the further approval of the Local Planning Authority is required in respect of the following reserved matters:

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

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and so to conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the remaining reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and

(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

3. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref. 0166\_SK\_02F) and the design principles of sections 5 and 7 of the Design and Access Statement (ref. PRO0270 version R4). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:

- (a) a Locally Equipped Area for Play (LEAP) and connectivity to public open space north of the site;
- (b) retained hedgerows and trees shall, as far as practicable, not act as enclosures to proposed dwellinghouses and be incorporated into public spaces/green infrastructure;

- (c) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows;
- (d) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 18 & 19 of this permission;
- (e) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/replacement of that guidance) and Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);
- (f) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- (g) if applicable, the provision of bin collection points at the adoptable highway end of private shared driveways and courtyards, sufficient in size to accommodate two bins per dwelling to which they serve;
- (h) each dwelling shall be provided with space for the parking of two vehicles for each 1, 2 or 3 bedroom dwelling or three vehicles for each 4+ bedroom dwelling, with any garages to be counted as a parking space of internal dimensions no less than 3m x 6m; and
- i) an ecological design strategy (EDS) addressing mitigation, compensation and enhancement which shall include the following:
  - i) details of retained habitats and suitable protection measures;
  - ii) details of newly created habitats including ponds and swales;
  - iii) identification of green corridors; and
  - iv) locations and specifications for a range of bat and bird boxes.

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

4. The development shall be carried out in accordance with the proposed mitigation measures for Great Crested Newt as outlined in section 4.2.4 of the Extended Phase 1 Habitat Survey report Rev 2 prepared by Prime Environment dated July 2017; and the reasonable avoidance measures for reptiles as outlined in section 4.2.5 of the same report.

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

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

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

6. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0730 to 1900 hours Monday to Friday, and 0800 to 1330 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

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

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

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

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

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

9. No development, including preparatory works, shall commence until a scheme ('the offsetting scheme') for the offsetting of impacts to skylark and their habitat at the site has been submitted to and approved in writing by the Local Planning Authority. The offsetting scheme shall include:

- i) a methodology for the identification of receptor site(s);
- ii) the identification of a receptor site(s);
- iii) details of the offset requirements of the development (in accordance with the recognised offsetting metrics standard outlined in the Defra Metrics Guidance dated March 2012);
- iv) the provision of arrangements to secure the delivery of the offsetting measures (including a timetable for their delivery); and
- v) a management and monitoring plan (to include for the provision, funding and maintenance of the offsetting measures for no less than 25 years from the date of implementation of the scheme).

The offsetting scheme shall be implemented in accordance with the approved details.

Reason: To overcome a residual adverse impact on biodiversity that would arise from the development, noting that even initial preparatory works could about this adverse impact.

10. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The details submitted shall also include a study on the feasibility of translocation of the hedgerow fronting Derby Road to the rear of the access visibility splays required under condition 16, along with a method

statement to deliver these works there this option is found to be feasible. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period, whilst any approved translocation works shall be carried out prior to creation of the access in accordance with condition 16.

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

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

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

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

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

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

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

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

levels. The development shall be constructed in accordance with the approved details.

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

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

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

15. No development or other operations, including preparatory works, shall commence until a temporary access onto (Old) Egginton Road has been provided for construction purposes. The access shall have a minimum width of 5.5m, be constructed to base course, provided with a 10m radius on the northern side and visibility sightlines of 2.4m x 43m in each direction, the area forward of which shall be maintained clear of any obstruction exceeding 600mm in height relative to road level. The temporary access shall be retained throughout the construction period unless incorporated into a permanent access as may be approved pursuant to the reserved matters.

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

16. Prior to any other works commencing on site, the revised layout of the junction of the old Egginton Road with the new section of Egginton Road shall laid out and constructed generally in accordance with the drawings submitted in the Technical Note Rev A by Mayer Brown dated 22 August 2016, subject to detailed design. For the avoidance of doubt, to carry out these works the applicant will be required to enter into an Agreement under Section 278 of the Highways Act 1980.

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

17. No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.

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

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

The assessment shall also provide (i) an evidenced and full understanding of any springs within the site and any associated mitigation requirements which might be required, and (ii) a reasonable assessment of the ordinary watercourses within the curtilage of the applicant's land ownership, identified to be the point of surface water discharge. Any mitigation required shall be accommodated in the surface water drainage scheme required under condition 17.

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

19. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with the principles outlined within the Flood Risk Assessment & Drainage Strategy (dated 13 June 2017 prepared by SYSTRA Ltd) and Defra non-statutory technical standards for sustainable drainage systems, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep. Where necessary, the scheme shall also include measures to capture overland surface water flows between gardens. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.



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

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

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

21. Prior to the construction of a dwelling a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The content of the LEMP shall include the following:

- a) a description and evaluation of features to be created and managed, which shall include the incorporation of bat roost and bird box features;
- b) ecological trends and constraints on site that might influence management;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

Where biodiversity enhancement measures are incorporated into dwellings or private gardens to those dwellings, the submitted LEMP shall also include a method of communicating the purpose of such biodiversity enhancement measures to occupiers of those dwelling(s). The approved scheme shall be implemented so that any physical measures are incorporated before the first occupation of each respective dwelling, or use of the garden or open space concerned, and thereafter retained and maintained.

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



22. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the approved plan(s), constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways and footways in front of each dwelling shall be completed with the final surface course within twelve months from the occupation of each dwelling, or in accordance with an alternative timescale/programme first submitted to and approved in writing by the Local Planning Authority.

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

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

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

#### Informatives:

1. This permission is the subject of an agreement under Section 106 of the Town and Country Planning Act 1990. This agreement also requires the agreement of a Design Code for the site if it is disposed of to multiple developers.
2. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):
  - facing materials, eaves and verge details, and cill and lintel details;
  - rooflight, porch and bay canopy details;
  - surfacing materials and patterns;
  - boundary treatments (including materials thereof); and
  - if applicable, details of a management and maintenance strategy for any highways not adopted under an agreement pursuant to section 38 of the Highways Act 1980, nor conveyed to individual property owners.

You should also ensure that the reserved matters ensure that (1) all exposed housing elevations are well treated to allow a view between interiors and external space; and (2) where housing is set in blocks of more than two properties rear garden access should originate within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less.
3. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the

development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

4. 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.
5. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. For the use or re-use of sewer connections, either direct or indirect to the public sewerage system, the developer/owner will be required to make a formal application to Severn Trent Water Ltd under Section 106 of the Water Industry Act 1991. Copies of current guidance notes and the application form may be obtained from [www.stwater.co.uk](http://www.stwater.co.uk) or by contacting the New Connections Team on 0800 707 6600.
6. The applicant is advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management (IAQM) for advice on how dust assessments should be performed. The assessment of the impacts of construction on local air quality should be undertaken following a risk based approach, as outlined in the IAQM document 'Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance'.
7. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.
8. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
9. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated

with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

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

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

**Item**            **1.2**

**Ref. No.**        **9/2018/0039/MAR**

**Applicant:**  
**Mr P Davey**  
**c/o CT Planning**

**Agent:**  
**Mr Christopher Timothy**  
**CT Planning**  
**Three Spires House**  
**Station Road**  
**Lichfield**  
**Staffordshire**  
**WS13 6HX**

**Proposal:**    **APPROVAL OF RESERVED MATTERS FOR ACCESS, LAYOUT, SCALE, APPEARANCE AND LANDSCAPING OF PLANNING PERMISSION REF. 9/2016/0870 FOR 41 DWELLINGS ON LAND AT SK4129 8075 MOOR LANE ASTON ON TRENT DERBY**

**Ward:**           **Aston**

**Valid Date**    **02/02/2018**

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

The item is presented to Committee as it is a major application where more than two objections have been received.

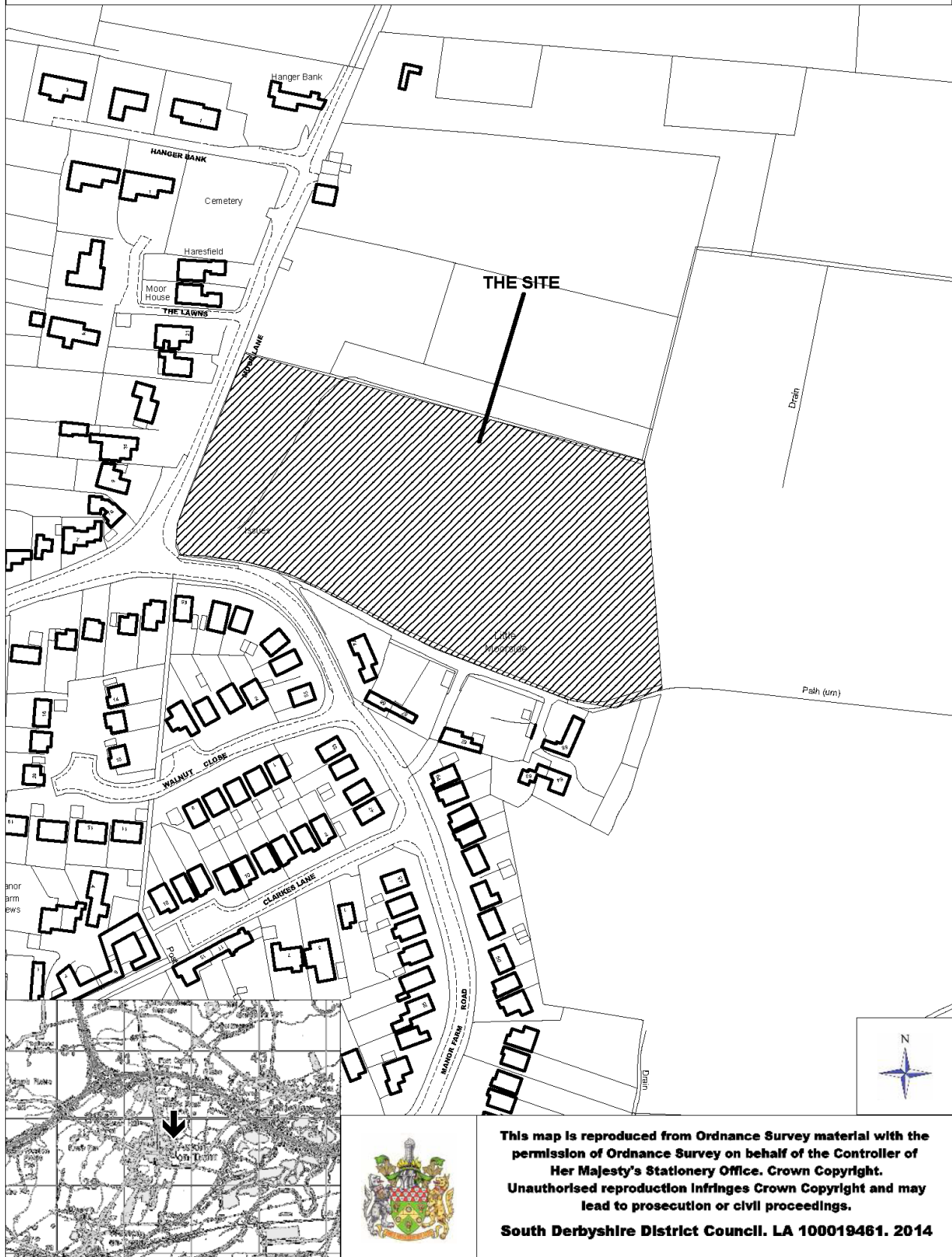
#### **Site Description**

The application site extends to 1.84 hectares in area, located at the eastern edge of Aston on Trent. The site is currently in agricultural use, and comprises a small field enclosed by a mature hedgerow to the west and an open field to the east which is bound to the north and south by mature hedgerows; the field then opens up on to a larger agricultural field to the east beyond the application site.

Moor Lane forms the western boundary of the site beyond which lie existing residential dwellings; the southern boundary beyond an existing hedgerow is formed in part by Manor Farm Road and Little Moorside, which is also a public footpath which runs along the southern boundary of the site and leads through the agricultural fields to the east and the countryside beyond. Beyond the southern boundary lie the existing dwellings on Little Moorside and Manor Farm Road. The northern boundary is formed by an area of woodland trees, and the only open boundary of the site is to the east where the site joins a larger agricultural field.

Following the submission of the outline planning application, three Norway Maple trees on the south eastern part of the site where it is bound by Manor Farm Road have been protected though TPO 451.

9/2018/0039 - LAND AT MOOR LANE, ASTON ON TRENT, DE72 2HG



## Proposal

Reserved Matters approval is sought for access, layout, scale, appearance and landscaping of planning permission ref. 9/2016/0870 for 41 dwellings. Access is proposed in the south western part of the site directly onto Manor Farm Road, to the west of the TPO trees. Public open space would adjoin the western boundary with an area of public open space proposed in the north western part. A feature square is proposed in the eastern part of the site framed on three sides by dwellings. Plot 1 is one and a half storeys with plots 10 and 23 single storey properties. All are close to the southern boundary. The remainder of the dwellings are two storeys. The mix of dwellings is as follows:

### Affordable Housing

- 2 x 1 Bedroom Maisonette
- 2 x 2 Bedroom Bungalows
- 5 x 2 Bedroom Semi-Detached Houses
- 3 x 3 Bedroom Semi-Detached Houses

### Private Housing

- 10 x 3 Bedroom Semi-Detached Houses
- 19 x 4 Bed Detached Houses

The landscaping plan indicates buffer planting along the eastern boundary and new native hedgerow planting along part of the southern boundary with the public open space forming a buffer to the west. A diversion of the watercourse is proposed within the public open space. A pedestrian route is proposed on the southern and eastern boundaries to link with Public Footpaths Aston Parish 4 and 5.

The undetermined linked application (ref. 9/2018/0040) involves drainage infrastructure to serve this residential development. It proposes that surface water is discharged into the adjacent ditch which requires an attenuation pond to limit flows to greenfield run off. A small service road constructed off the turning head within the adjacent residential development is proposed. The stations will be packaged pump stations with the majority of the works below ground. Above ground will be a small control kiosk measuring 460mm in width, 300mm in depth and 610mm in height.

The attenuation basin would be north of the pumping stations and would have maximum depth of 1.2 metres with a top water level of 900mm. The slopes of the basin would be no steeper than 1 in 4 to allow for continuous safe operation and maintenance and would be enclosed with timber post and rail fencing.

## Applicant's supporting information

The Design and Access Statement describes the site and its context with photographs of the properties in the vicinity. It lists the relevant planning policies and lists to constraints and opportunities that informed the proposed layout. It states the access is as per the outline submission and the proposal incorporates footpaths to both sides of the 5.5m wide road which are both to be 2m wide. Shared driveways are proposed off three main turning areas within the site. It states that the proposed dwellings are a mixture of single storey and two storey properties with a mixture of



integral garages, detached and link detached garages. This is to respond to the properties surrounding the site which comprise of a mixture of bungalows to the south and two storey dwellings. Along the southern boundary of the site, where dwellings are in close proximity to the boundary [Plots 10+23] are bungalows, with Plot 1, which is adjacent to the site access and public open space, a dormer bungalow. Properties are located at junctions to two roads, these have been designed to be double fronted dwellings facing both roads to address both street frontages. A study of the local vernacular has been undertaken to inform the designs and the landscaping strategy retains existing hedging and trees.

The Design Rational Statement assesses the character of properties within the Aston on Trent Conservation Area and has incorporated features found in the area into the proposed properties such as arched brick lintels, brick eaves and verges and some chimneys.

The Flood Risk Assessment confirms that the site is located within flood zone 1 and is not affected by fluvial flooding from nearby rivers and therefore focuses on other possible flood risk to or from the development and the sustainable disposal of surface water. An open attenuation pond would be situated to the north-east which would provide an element of open space, and also the required surface water storage volumes and water quality benefits. The site relatively flat but falls very gently evenly from west to east with levels ranging from approximately 36.2m AOD down to 34.2m. Due to site's ground levels and soils infiltration rates a gravity outfall or soakaway solution is not possible and as such an off -site attenuation basin and pumping station are proposed to be maintained by a management company.

The Planning Statement discusses the outline consent and summarises the pre-application discussions prior to this submission. It reviews the planning policy and states that the layout is consistent with the key principles outline on the outline's indicative layout. It identifies where the proposal complies with the outline conditions in respect of single storey properties and the housing mix with 30% affordable homes proposed. The development is to be accessed from a single point of access on the southern boundary. The access dimensions of the access are a minimum of 6 metres in width with a 10 metre radii with visibility splays in both directions of 2.4 metres by 43 metres.

The Site Investigation Report investigates geotechnical considerations and contamination and ground gas assessments. It identified that shallow groundwater was present on site. Soakaway testing was undertaken. The risk of contamination is low with risk to controlled waters low and ground gas very low.

## **Planning History**

9/2018/0040    Creation of open attenuation pond, underground fuel pump station and 2 no. kiosks to provide surface and foul water drainage for residential development approved under outline permission ref. 9/2016/0870, undetermined.



9/2016/0870 Outline application (all matters to be reserved) for the residential development of up to 42 dwellings including public open space, landscaping and sustainable drainage, Granted 16/3/17

## Responses to Consultations

The Lead Local Flood Authority has no comments to make and refers to their comments on the outline.

The County Highway Authority has no objection to the proposed access onto Moor Lane subject to conditions relating to the access, parking, construction compound, internal accesses and gates.

The Council's Tree Officer considers the layout, tree constraints plan and tree protection plan to be acceptable in relation to the protected trees on Moor Lane.

The Council's Strategic Housing Officer considers the proposed mix of affordable units to be acceptable as it reflects the actual demand and allows the Council to meet a wider spectrum of need from the waiting list.

The Environment Agency has no comments.

Derbyshire Wildlife Trust has no objection to the proposal and considers the landscaping scheme to be acceptable.

The County Archaeologist has confirmed that condition 4 of the outline may be discharged in respect of the submission of a Written Scheme of Investigation.

Peak and Northern Footpath Society welcomes the pedestrian links to the existing footpaths.

## Responses to Publicity

Aston on Trent Parish Council objects on the following grounds:

- i) *the plots marked 2 to 9 and 36 to 38 are now 2 storey, they should revert to 1.5 storey to encompass existing covenants and houses along Little Moorside and Moor Lane;*
- ii) *the orchard was part of the outline planning permission and should be re-instated into the plans;*
- iii) *the original buffer running alongside Little Moorside should be re-instated into the design;*
- iv) *the footpath link is a safety concern and a staggered access via the bottom of Little Moorside to the existing footpath would ensure that the residents can still be linked to the village, but would alleviate the safety concerns of pedestrians versus vehicular traffic as the pedestrians would be visible to vehicles;*
- v) *the location of the access is still an issue as the visibility splay from Moor Lane, the new development and then Little Moorside does not enable visibility*

*for all three roads, and they recommend that the entrance is moved to the existing gateway to the field;*

- vi) they strongly object to the hammer heads in the design; and*
- vii) they request that there are for litter bins installed within the development.*

*In response to a re-consultation, the Parish state their original objections and comments still stand and have been ignored.*

27 objections and letters of support have been received, raising the following concerns/points:

- a) The properties are adjacent to Little Moorside which breaks the pre-application agreement.
- b) The proposed pedestrian link on to Little Moorside would cause conflict with existing car users of the lane.
- c) The development would increase traffic within the village and surrounding junctions which are already busy, increasing the likelihood of accidents.
- d) The applicant does not own the hedge and should not therefore propose a link / gap through it.
- e) The proposed dwellings should be 1 and a half storeys adjacent to Little Moorside but 2 storeys are proposed.
- f) The affordable housing is adjacent to their garden.
- g) A tree filled boundary with low level houses was expected but is not proposed.
- h) The whole of the southern boundary should have 1.5 storey dwellings and not the 3 proposed.
- i) Condition 5 of the outline require the affordable housing to be pepper potted across the whole site but the proposal shows it grouped in the south east corner.
- j) Large properties are proposed on plots 36 – 38 which do not blend with the existing Moor Lane bungalows.
- k) Condition 12 of the outline requires a construction management plan, has this been submitted as there are safety concerns in relation to the access.
- l) Construction vehicles should access via Derby Road and Moor Lane and not The Green and Manor Farm Road as these are narrow.
- m) The proposal is not in accordance with Policy H20 Housing Balance.
- n) There is no mention of orchard trees within the POS as discussed at the planning meeting.
- o) A buffer on the southern boundary was discussed at committee but is not proposed.
- p) Little Moorside is an unadopted road for use by residents to access their properties.
- q) There would be loss of privacy for numbers 61, 63 and 65 as headlights of turning vehicles would shine onto their bedroom windows.
- r) The access is badly situated and a low roundabout would improve safety.
- s) The hedge on the southern boundary was cut without the owner's agreement.
- t) The road to the pond and pump house is a concern as it may increase of further development within the field which would result in the merging with Shardlow and the resultant highway and facility capacity issues.

- u) Evergreen foliage should be considered on the south and western boundaries.
- v) Existing properties on Moor Lane has restrictive covenants stipulating no development above 1.5 storeys and the proposed development should take this into account.
- w) Little Moorside has been incorrectly named in the documents with Manor Farm Road being named instead.
- x) The buffer on the northern boundary is supported to protect the established paddocks.
- y) The new pedestrian link to the existing public footpath is welcomed.
- z) The access should not be moved to the existing gated access on the corner as requested by the Parish Council as it would be dangerous.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE5 (Development in the Countryside) and BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Affordable Housing SPD
- Section 106 Agreements – A Guide for Developers
- Aston on Trent Conservation Area Character Statement

## **Planning Considerations**

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

- Principle
- Highways
- Landscaping

- Drainage
- Public Open Space
- Design and Layout
- Ecology and Trees
- Affordable Housing

## **Planning Assessment**

### Principle

The principle of development was established in the granting of outline permission in March 2017 and the subsequent housing allocation in the Local Plan Part 2 (LP2) adopted in November 2017. The site now also lies within the settlement confines (LP2 policy SDT1). Therefore, as the principle is considered to be acceptable, an assessment of the proposal against the key considerations of LP2 Policy H23 for non-strategic housing allocations is required. These are:

- i) transport impacts, including access points, visibility, pedestrian and cycle links and impact on the existing road network;
- ii) impact on the surrounding landscape and/or townscape;
- iii) management of flood risk and drainage;
- iv) impact on designated and non-designated heritage assets and settings;
- v) biodiversity impacts; and
- vi) the design and layout to take account of site characteristics;

This is incorporated with an assessment of the detailed site specific requirements of the allocation in LP2 Policy H23A detailed below:

- a) Up to 42 dwellings;
- b) Access to be from Manor Farm Road;
- c) Pedestrian access points to be made to south of site to join existing PROWs;
- d) A Landscape buffer to the east and west to be implemented and enhancement made to the south;
- e) An appropriate easement to be provided that is free of obstruction along the existing watercourse for maintenance;
- f) Public open space to be provided to the western part of the site;
- g) Use of 1.5 storey dwellings in close proximity to the southern boundary.

### Highways

The Transport Statement submitted at the outline stage considered the impacts on the local highway network. It concluded that the local highways were lightly trafficked with vehicle speeds in line with the speed restriction of 30mph. The site is within a sustainable location with access to a range of services and amenities within the village, supported by suitable pedestrian links and local public transport services linking it to Derby. The development was estimated to generate up to 23 additional vehicle movements during peak times. The access junction forecast to operate well within the normal design threshold for capacity with minimal queuing or delays incurred. The proposal was therefore not considered to have a material impact on the safety or operation of the local highway network.

Vehicular access to the site is proposed from Manor Farm Road to the east of its junction with Moor Lane and east of the existing field access in to the site. Visibility splays of 2.4m x 43m can be achieved with a 2m wide footway on each side of the access. This access would serve the development both during construction and when completed.

Car parking levels are 103 spaces for 41 dwellings with a minimum of 2 spaces per dwelling and 3 to 4 spaces for the larger dwellings. This complies with the 6 Cs Design Guide and the Council's Design Guide in respect of parking levels. The estate roads would not be adopted, however, the swept path analysis illustrates sufficient space within the carriageway for refuse vehicles and adequate turning areas in accordance with condition 15 of the outline. The square would be a raised table with granite set transition, block paving to the square itself in tegular paving with the specific materials and details controlled by condition. Private drives would link to the main streets, square and turning heads.

Pedestrian access is proposed at the point of the vehicular access and at two additional points along the public footpath which runs to the south of the existing hedgerow beyond the site (Little Moorside) to link in with the existing footpath access to Manor Farm Road and to the east and open countryside beyond.

Given the above and the advice of the County Highway Authority, the proposal is considered to accord with LP1 policy INF2 and provisions of the NPPF.

### Landscaping

Policy S1 of the LP1 highlights that "it is essential that the District's heritage assets, landscape and rural character are protected, conserved and enhanced". Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics. With new developments expected to be visually attractive, appropriate, which respect important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness and quality of the District's landscape through careful design and the sensitive implementation of new development.

A Landscape and Visual Impact Assessment (LVIA) was carried out to inform the outline application and concluded that the susceptibility of the site to change was judged to be moderate-low rather than sensitive, with the mitigation identified to the eastern, western, and southern boundaries considered to suitably mitigate the impact of the proposed development on the landscape. The landscaping scheme submitted incorporates the requirements identified in the outline such as the POS area in the western part, retention of existing trees and hedgerows and a buffer to the east.

On the southern boundary with Little Moorside the existing hedging would be retained together with new sections proposed to improve its appearance and fill any

gaps. New sections of hedgerow are proposed on the northern boundary with the woodland beyond. The location of the POS adjacent to the western boundary was considered to serve to both soften the development's appearance and enhance the boundary through tree planting and landscaping mitigating the impact. A separation distance of 55-67m between properties on Moor Lane and proposed properties has been achieved with a substantial landscaped area in between. On the eastern boundary new hedgerow is proposed together with 7 new trees within the amenity and meadow grassland to provide a buffer with the open land beyond.

The three existing Norway maple trees along Manor Farm Road protected by TPO 451 are incorporated into the development to retain key landscape features to ensure sensitive implementation of the development in accordance with LP1 Policy BNE4. The thick vegetation which bounds the site to the north largely prevents any views beyond the site in that direction. However, the site is clearly visible from the existing public footpath on the approach from the east across an open field from the open countryside beyond. The proposal includes the provision of a landscape buffer along this boundary to assimilate the site boundary into the existing character of the landscape and the rural edge of the village.

The submitted landscaping scheme is considered to comply with the requirements stipulated within LP2 Policy H23A to provide, retain and enhance existing landscaping and provide buffers and landscaping to soften and mitigate the development within the landscape. Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not unduly adversely affecting public aspects of the site. The proposal is considered to be a sensitively designed new development which has been engineered so as to create as little impact as practicable on the countryside and thus accords with LP1 Policies S1, BNE1 and BNE4 and the provisions included in the NPPF.

### Drainage

The application site is located within Flood Zone 1 and thus at a low risk of flooding. The Drainage Scheme has changed since the outline approval and a separate planning application for off-site drainage has been submitted (9/2018/0040) which currently has an ecological issue to address and as such would be a delegated decision when it is resolved. The Flood Risk Assessment (FRA) submitted with the outline application indicated that the site could be drained via infiltration. It assumed that each plot would have an individual soakaway in the garden and that the highway would drain to a soakaway system on the eastern boundary with two swales with underlying soakaways and an overflow in to the adjacent ditch. However, since the outline planning permission was granted a full Phase 2 Ground Investigation, including percolation tests, has been undertaken. This revealed clay in the underlying strata and shallow groundwater which prevents the use of soakaways. The application therefore proposes to discharge the surface water into the adjacent ditch but requires the attenuation pond to limit flows to greenfield run off. The open attenuation pond would be situated to the north-east which would provide an element of open space, and also the required surface water storage volumes and water quality benefits. Attenuated flows from the basin would be directed to the existing ditch. Due to the minimum fall gradients and cover depths required on the upstream pipework, a gravity outfall to the ditch is not possible and therefore a pumping station



is required to clear the basin following the critical storm event. The site attenuation basin and pumping station are proposed to be maintained by a management company.

The LLFA has no objections subject to a discharge of the relevant outline conditions 19, 20, 21 and 22. Maintenance is covered in Schedule 2 of the section 106 agreement.

### Public Open Space

LP1 Policy INF9 states the Council will work with partners to provide sufficient high quality green space and recreation facilities to meet the needs of both new residential development and the deficit in existing provision for the existing population.

The resolution leading to the outline permission had a resolution to secure the incorporation of an orchard in the public open space area. In respect of the public open space and the provision of the orchard, the applicant has been in consultation with the Parish Council and the submitted landscaping scheme broadly accords with their aspirations for the area. However, the Parish Council has stipulated that they do not want fruit trees, and native varieties are preferred.

The diverted watercourse would run along the eastern boundary of the POS with a pedestrian link over the watercourse linked with a mown grassed path to a circular route around the area in the north western corner. Eleven trees would create a circular tree feature in this area with 2 Evergreen/Holme Oaks adjacent to the western boundary to frame and filter views. Other trees within the main group are Crab Apple, Hornbeam and Wild Cherry. Whilst a cluster was a preference of the Parish, the applicant considers that the layout indicated provides for a more useable area with increased tree planting. Natural mown grassed pathways are proposed around the area. Thirteen new trees would be planted in this area which would enhance the appearance of the area, help assimilate the proposal into the landscape and would complement the existing trees adjacent to the northern and southern boundaries. The POS provision on site far exceeds the minimum provision required in the Council's guidance of 1371.6m<sup>2</sup> based on 54 bedrooms, with the actual provision being 2103m<sup>2</sup>. Future maintenance is controlled via the section 106 agreement which provides for the transfer of the land to either a management company or the Council.

The proposed location adjacent to the western boundary serves to soften the proposal and results in the area being accessible to both the proposed residents of the site and the wider community of Aston, thus meeting the requirement of Policy INF9 and provision detailed in paragraph 73 of the NPPF.

### Design and Layout

LP1 Policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of



use, local character and pride, National Forest, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. All proposals for new development will be assessed against the Council's Design SPD.

In terms of the design, the cues are taken from existing properties located within the Aston on Trent Conservation Area and the Design Rationale Statement submitted identifies details such as brick arched lintels, brick corbelled eaves and verges and casement windows. The character vision for the site is a rural village character that fits into the established landscape and blends seamlessly into the village location when viewed from the open countryside. The site lies on the edge of the village and although not within the Conservation Area, a high standard of design has been secured that incorporates the majority of features outlined. All two storey gable features within the development would have dentil eaves brickwork with rise and fall brackets for the black rainwater goods with specific details controlled by condition.

The property at the site entrance would be one and a half storeys facing west set behind the TPO trees with dwellings to the north accessed from a private drive with main elevations facing the POS to the west. The dwellings have similar features that would create attractive streetscene with new trees proposed within front gardens of properties on the main spine road leading to the square. The square is framed by high quality dwellings with hipped roofs that have two main elevations that address the street. The main spine road linked to the square aids legibility of the development together with the slight change in the design of dwellings surrounding the square. Plot 15 would provide the end stop for the main street with its end gable. Walls would be secured by condition where rear gardens adjoin main public areas with sufficient areas of landscaping in between the wall and footway to soften impacts. The rows of parking areas for plots 10-14 and 19-23 have been broken up by sections of hedgerows and would be adjacent the landscaping buffer to the east and the segregated footpath, both of which would be lined with trees.

Two new footpath links are proposed in these areas to link with the existing public footpath network which seeks to provide pedestrian connections to the village and wider area.

In terms of the impact on the residential amenity of existing properties, the proposed layout accords with the distance guidelines within the Design Guide SPD with the nearest properties being in excess of the minimum distances required. The dwellings in close proximity to the southern boundary (plots 1, 10 and 23) are within the stipulated guideline of Policy H23 A in that they are 1.5 storey and single storey. Properties further away from this boundary (between 9-15m away) and not in close proximity are two storey dwellings. The proposal is considered to comply with Policy H23A in this respect.

In general terms, the layout accords with condition 3 of the outline in terms of the principles outlined in the Design and Access Statement and the amended Indicative Layout Plan submitted with the outline application and has built on the themes proposed at this time. The proposal has been assessed as having a Building For Life score of 14.5 (i.e. above the required standard). It would provide a development with a high quality design, legible layout which would respond to its context through the use of landscaping both retained and proposed to assimilate the development into its

surroundings without significant impacts on the residential amenity of existing properties and that would provide connections to the existing area for future residents. On this basis the proposal is considered to accord with LP1 Policy BNE1, H23, the aspirations of the Design Guide SPD and the principles of the NPPF.

### Ecology and Trees

The habitats of note relate to the margins of the fields, the existing hedgerows and trees, all of which are to be retained within the development proposals (save for the loss of a small area of hedgerow to facilitate the site access, which can be adequately compensated for within the site). The proposed mitigation strategy includes native planting along with the ecological enhancements which are considered to result in a small net gain in biodiversity across the site. As recommended by Derbyshire Wildlife Trust, a Landscape and Ecological Management Plan was secured by outline condition 7 to manage the proposed area of open space and the hedgerows for ecological gains. The Trust has confirmed that submitted landscaping scheme is acceptable. Overall it is considered, subject to the outline condition, that the impact of the development on ecology would be acceptable and comply with Policy BNE3 of the Local Plan 2016 and the relevant protected species and habits legislation.

The three Norway Maple trees on the site's frontage on Manor Farm Road protected though TPO 451 are retained. A Tree Protection Plan and Tree Constraints Plan have been submitted and the Council's Tree Officer considers them to be acceptable and condition 6 of the outline has secured protective fencing during construction to be provided. The submission has demonstrated that the layout and form of the development has been informed by appropriate arboricultural surveys, shading impacts have been considered and appropriate measures secured to ensure adequate root protection and buffers around trees, woodland and hedgerows in accordance with LP2 Policy BNE7.

### Affordable Housing

LP1 Policy H20 requires a balance of housing that includes a mix of dwelling types, tenure, size and density, making the most efficient use of land that is appropriate for the local area and providing a suitable mix of housing that is both suitable and adaptable. On the basis that the proposal has a mix of 1 bed properties, 2 bed bungalows and semi-detached, 3 bed semi-detached and 4 bed detached, it is considered suitable and appropriate in accordance with Policy H20.

The affordable housing LP1 Policy H21 seeks to secure 30% of new housing development as affordable on sites over 15 dwellings. Consideration of the local housing market, viability, tenure mix and phasing is also required. 30% affordable housing was secured at outline through condition 5. The proposal is for 41 dwellings and as such 30% equates to 12 dwellings. The Strategic Housing Officer considers the proposed mix of units to be acceptable as it reflects the actual demand and allows the Council to meet a wider spectrum of need from the waiting list. The group of 12 is considered to be acceptable and the affordable dwellings detailed below are secured by condition 5 of the outline permission.

The proposed affordable units include:

- 2 no. 1-bed maisonettes
- 2 no. 2-bed bungalows
- 5 no. 2-bed semi-detached two storey dwellings
- 3 no. 3-bed semi-detached two storey dwellings

1-bed (17% provision) / 2-bed (58% provision) / 3-bed (25% provision)

The proposal therefore complies with LP1 Policy H20 and H21 and the provisions within the NPPF.

In terms of the potential for the layout to facilitate further development beyond the site due to the internal road layout, whilst not material to the determination of this application, any future development would need to be considered on its merits but it is considered that the area to the north of the site which is formed by a large woodland is sufficient to provide a defensible boundary as would the required area of landscaping buffer along the eastern boundary of the site.

### Conclusion

The proposal complies with both the key principles and site specific requirements of LP1 Policy H23A. The proposal provides a development of a rural village character with the use of existing and proposed landscaping and POS that serves to assimilate it into its edge of village context. Suitable access can be achieved together with appropriate pedestrian linkages to the existing footpath network and wider area. The drainage scheme involves a diverted watercourse through the POS with the associated biodiversity gains from the creation of an adjacent attenuation pond wildlife habitat. The proposal's high quality design reflects the character of properties within the village and layout provides attractive new streets without significant impacts on the residential amenity of existing properties adjacent.

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**

Subject to first granting permission for the linked application (ref. 9/2018/0040);  
**GRANT** permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawing no. 7590/150I received on the 24th May 2018, drawing no's 7590/273B, 7590/276C, 7590/277C, 7590/279C received on the 18th May 2018, 17103 02 Rev B received on the 10th May 2018, 8220-L-01 and Rev B 8220-L-02 Rev B received on the 9th May 2018, 171103 113 received on the 3rd May 2018, 7590/260B and 7590/265B received on the 1st May 2018, drawing no's 7590/100, 7590/101, 7590/151A, 7590/250B, 7590 251A , 7590/252A, 7590/253A, 7590/254A, 7590/255B, 7590/256B, 7590/257, 7590/258A, 7590/259A, 7590/261B, 7590/262C, 7590/263B, 7590/264A, 7590/266B, 7590/267A, 7590/268B, 7590/269A, 7590/270B, 7590/271A,

7590/272A, 7590/274B, 7590/275C, 7590/278C, 7590/280D received on the 16th April 2018 ; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. Prior to the construction of any of the floorslabs of any of the houses hereby permitted details of the finished floor levels of each building shall have first been submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the amenity of neighbours.

3. No part of the construction of any road, footpath, car parking area or courtyard shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

4. Before any works involving the construction of any dwelling commences precise details, specifications and, where necessary, samples of the facing materials and of eaves and verges to be incorporated in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of boundary treatments, plans indicating the positions, design, materials and type of boundary treatment to be erected in the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the associated dwellings are occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

6. Bin stores shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to its designated use.

Reason: In the interests of highway safety.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), before any works involving the construction of any dwelling

commences the specification of the Open Space land including details of the bridge over the watercourse shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.

Reason: To ensure it is suitable for public use.

8. The new dwellings shall not be occupied until space has been provided within the site curtilage for parking, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

9. All accesses within the development shall not be taken into use until 2m x 2m x 45° pedestrian inter-visibility splays have been provided on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

10. There shall be no gates or other barriers within 5 metres of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

11. Vehicle accesses shall be no steeper than 1 in 20 for the first 5 metres from the nearside highway boundary.

Reason: In the interests of highway safety.

12. Notwithstanding the submitted details no dwelling shall have fascia boards placed over corbelling and there shall be no use of cloaking tiles/dry verges and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings shall thereafter be maintained with no fascia boards placed over corbelling or cloaking tiles/dry verges throughout the lifetime of the development.

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

13. The development shall be undertaken in accordance with the submitted Tree Constraints Plan and Tree Protection Plan received on the 11th April 2018.

Reason: To safeguard the health of the nearby protected trees.

14. Notwithstanding the submitted details gutters and downpipes shall have a black finish and be fixed by rise and fall metal brackets.

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

#### Informatives:

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

2. 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.
3. Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.
4. 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.
5. Car parking provision should be made on the basis of (a maximum ratio of 1 parking space plus 1 space per 2 units for visitors per 1 bedroom dwelling, 2 spaces per unit for 2-3 bedroom dwellings and 3 spaces per unit, of which no more than 2 shall be in line, for a 4/4+ bedroom dwelling respectively). Each parking bay should measure 2.4m x 5.5m with a minimum width of 6 metres behind each space for manoeuvring.
6. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Economy, Transport and Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).
7. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
8. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent



position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

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

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

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



**Item**            **1.3**

**Ref. No.**        **9/2018/0322/RSD**

**Applicant:**  
**St Modwen Homes Ltd**  
**c/o Planning Prospects Ltd**

**Agent:**  
**Mairead Kiely**  
**Planning Prospects Ltd**  
**4 Mill Pool**  
**Nash Lane**  
**Belbroughton**  
**DY9 9AF**

**Proposal:**    **APPROVAL OF RESERVED MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE) OF OUTLINE PERMISSION REF. 9/2013/1044 FOR ERECTION OF 177 DWELLINGS AND CREATION OF ASSOCIATED ROADS AND INFRASTRUCTURE (RESIDENTIAL PHASE 2) ON LAND SOUTH OF THE MEASE PART OF HILTON DEPOT SITE THE MEASE HILTON DERBY**

**Ward:**           **Hilton**

**Valid Date**    **22/03/2018**

**Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager because it proposes changes to the original S106 agreement.

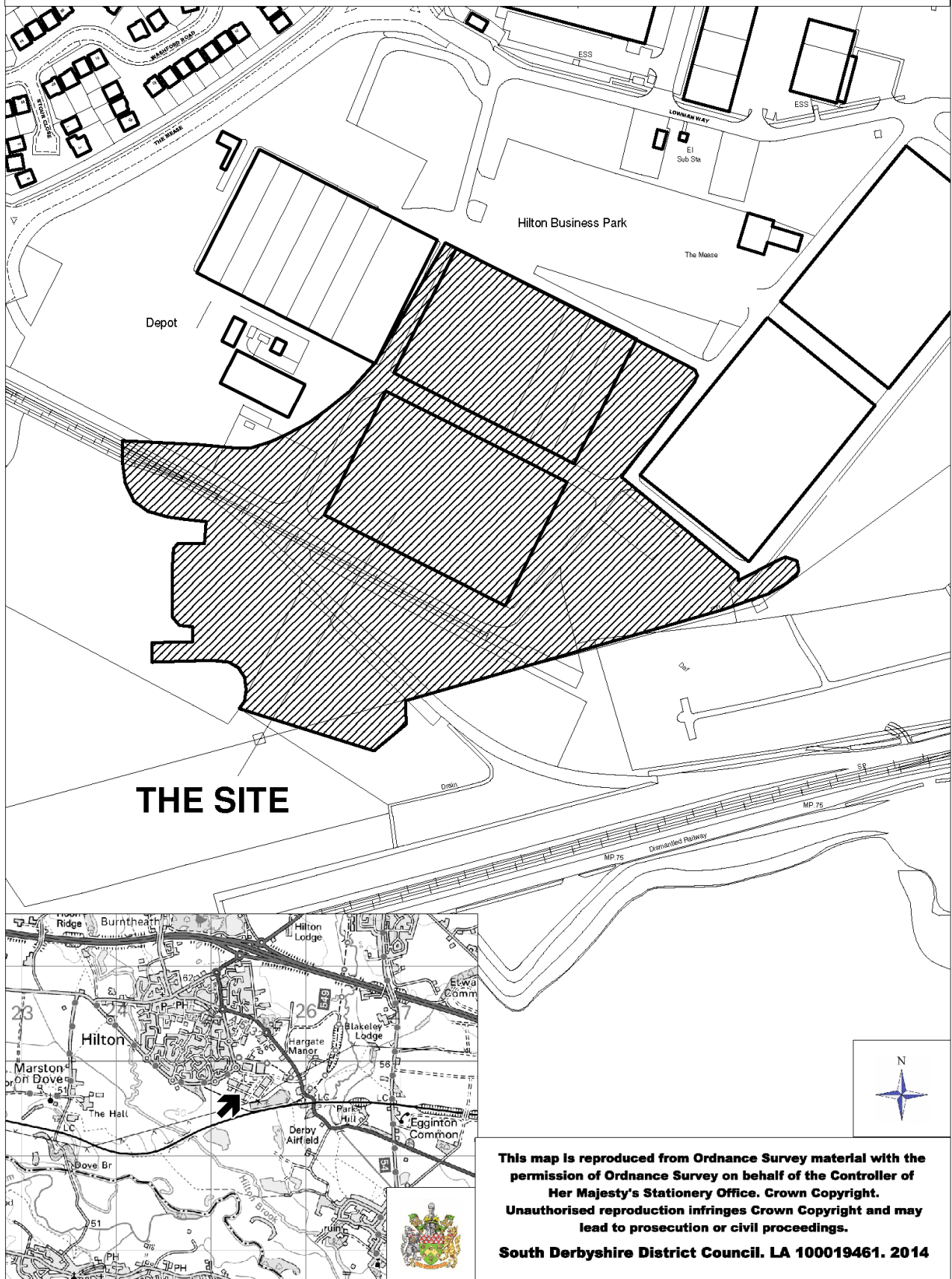
**Site Description**

The wider site comprises some 37 hectares of former brownfield land, situated to the south of The Mease and previously occupied by industrial units and associated service yards and car parks. The application site here lies to the south of the phase 1 residential development for 130 dwellings, and to the western end of the wider site. It is framed by the public open space and drainage facilities created to the south to support the wider development, further housing to the west approved as part of phase 1 (beyond which is woodland) and the phase 3 residential parcel to the east – presently undergoing remedial works. The site is relatively flat with no existing vegetation, and is undergoing remedial and preparatory works pursuant to existing permissions.

**Proposal**

It is proposed to erect 177 dwellings as phase 2 of the overall housing development at the former Hilton Depot site – this phase bringing the total housing provision to 307 dwellings of a potential 485. A range of two to two-and-half storey dwellings would be provided with a range of parking provision including private garages,

9/2018/0322 - Land South of The Mease, Part of Hilton Depot Site, The Mease, Hilton, Derby DE65 5FJ



private drives, parking bays to the front of dwellings and courtyards. At least 2 spaces per dwelling would be provided. Associated estate streets and footways, including a green route, would be provided.

As part of the proposals, it is also intended to revise the current affordable housing obligation under the section 106 agreement, following further assessment of viability, from 10% to 6% of the overall potential of 485. The proposed phase 2 layout and designs are presented to reflect the new proportion.

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

A Design and Access Statement sets out how the development has been designed to enhance the strengths of the existing neighbourhood. From analysing the local character of Hilton, specific character areas have been used to create a distinct character and identity for the development. This method of analysis and application of the surrounding context has been linked with the site to reinforce the urban form whilst enhancing the surrounding residential areas of Hilton. The appearance of the development reflects the local character by making reference to the surrounding residential areas, the previous phase and the existing landscape. As a result, the character areas and identity of the development is enhanced and establishes its connection to Hilton. Overall, it is believed that the amount, scale and type of development is appropriate for the site and would help further create an inclusive and sustainable community for Hilton.

A Covering Letter notes the application has had regard to the outline planning conditions and section 106 (s106) requirements, and it is states that the proposal accords with the general parameters set out within approved outline plans. It is noted that a number of outline planning conditions have already been discharged for this phase of the development, and details of these are provided. It is also noted that the s106 agreement requires the submission of a viability review to set the level of affordable housing for future residential phases (i.e. phases 2 and 3). This viability appraisal has been provided along with a draft Deed of Variation to the s106 agreement. It is acknowledged that an approval of this reserved matters submission cannot be offered until the Deed of Variation has been completed.

### **Planning History**

- |             |  |
|-------------|--|
| 9/2013/1044 | Outline application with all matters except for access reserved for a mixed used development comprising up to 485 dwellings; employment units for use as offices and/or light industry, general industry and/or storage or distribution; a primary school; community facilities including doctors, dentist and/or crèche; retail and other service uses consisting of financial and professional services, restaurants and cafes and/or hot food takeaways, and assembly and leisure along with associated access, parking, footpath/cycleways, public open space including allotments, landscaping and other infrastructure – Approved March 2015 |
| 9/2014/0969 | Remediation works, re-profiling and re-modelling of site levels including the creation of surface water attenuation areas, and the   |

	creation of new accesses along with new road and drainage infrastructure – Approved March 2015
9/2015/0588	The erection of three dwellings, garages, outbuildings and other associated works for use as show homes in connection with outline permission ref. 9/2013/1044 – Approved August 2015
9/2015/0677	Approval of reserved matters of outline permission ref. 9/2013/1044 for erection of 130 dwellings and creation of associated roads and infrastructure (residential phase 1) – Approved December 2015
9/2015/0697	Approval of reserved matters of outline permission ref. 9/2013/1044 for erection of a primary school – Approved December 2015
9/2015/0744	The demolition of unit 18, FME buildings and goods buildings, and small shed and office block – Approved September 2015
9/2017/0177	Approval of reserved matters of outline permission ref. 9/2013/1044 for erection of 5 dwellings (re-plan of plots 55-59 on residential phase 1) – Approved April 2017
9/2017/0563	Prior notification of proposed demolition of units 19 & 20 – No objection September 2017
9/2017/1299	Approval of reserved matters for landscaping (in part), secondary access (in part) and layout (in part) for enabling works pursuant to outline permission ref. 9/2013/1044 – Approved March 2018
9/2018/0256	Approval of reserved matters of outline permission ref. 9/2013/1044 for the commercial development phase comprising six employment units for use as offices (use class B1(a)), light industry (use class B1(c)), general industry (use class B2) and/or storage and distribution (use class B8)) – Pending

## Responses to Consultations

The County Highway Authority makes a few minor observation in respect of rear garden accesses being omitted to two plots, minimum service margin dimensions, the need for a commuted sum for grassed verges and trees where to be within the adoptable highway, bin collection areas being required at the entrance to private shared surfaces, and transitions between differing carriageway surfaces to be laid flush. At the time of writing, revised plans and drawings which seek to address the detail of these comments are subject to reconsultation, and Members will be updated verbally at the meeting.

The Police Force Designing Out Crime Officer comments that the layout proposed and majority of boundaries are acceptable in the main, but note some concerns with the treatment of key corner plots, a couple of shared accesses and some peripheral boundary access detail. At the time of writing, revised plans and drawings which

seek to address the detail of these comments are subject to reconsultation, and Members will be updated verbally at the meeting.

## **Responses to Publicity**

Hilton Parish Council requests that consideration is given to parking provision, wider roads, etc. as on-street parking is having a detrimental effect on the village.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H7 (Land at Hilton Depot), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows).

## **Emerging Policies**

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

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

The site is within the settlement confines for Hilton part of strategic allocations in the LP1 allowing for up to 485 dwellings, employment floorspace, a primary school and a local centre. The outline permission 'fixed' the access points to The Mease, and it is the layout of the site away from that access along with matters of scale, appearance and landscaping which are relevant under this application.

The outline permission requires the site is developed in accordance with the approved phasing plan (condition 6). This submission is in line with that plan. The

scheme must also be designed in line with the Highway Authority's 6C's Design Guide (condition 43) and be supported by swept path diagrams to demonstrate turning space for larger vehicles (condition 44). Again, the layouts accord with these requirements. The principles set out in the Development Framework contained within the outline Design and Access Statement are to be adhered to, whilst policy H7 also requires provision to be made for high quality cycle and pedestrian access, both within the site and linking to existing networks.

With the principle of development established, matters relating to the impact on local services and facilities, ground conditions, ecology and flood risk have all been previously considered acceptable, subject to conditions and/or obligations. The main issues central to the determination of this application are therefore:

- The layout and landscaping of the phase;
- The scale and appearance of the dwellings; and
- The results of the viability review.

## **Planning Assessment**

### Layout and landscaping

The phase focusses on one key residential street that already runs from The Mease through phase 1 and into the western end of the site, before it runs towards the north-eastern edge – facilitating access into phase 3. Phase 3 would benefit from this route, the key route through phase 1 and a further access onto the road serving the employment allocation. A second key route would spur off from the key residential street in phase 2, allowing a further connection into phase 3, and whilst there is some residual concern as to north/south pedestrian and cycle movement from the southern tip of phase 3 towards the proposed local centre, the edge of the phase 2 layout has been designed to accommodate such a route in close proximity in phase 3. The layout facilitates movement of the various sizes and types of vehicle envisaged, whilst providing a proportionate level of parking for each plot, in line with the SPD. The existing east to west cycle link is met by a north to south link through this phase – connecting the public open space along the southern edge of the wider site to this existing link. Whilst alongside the estate streets, it is well separated and 'greened' by way of avenue tree planting, providing a high quality design for the route.

The layout has been refined to ensure brick walls to all garden boundaries exposed to key parts of the public realm, such as roads or open spaces, successfully addressing the pre-development requirements of outline condition 10. Condition 11 of the outline reserves finer detail of measures to prevent motorcycle access along footpath links, and it is noted there is presently a shortcoming in this respect on the northern edge of the phase. Whilst the plans do not fully detail the surfacing materials for public and private spaces, the site layout gives some indication of where there would be changes in appearance and material, and outline conditions 7 and 53 can address the finer details of this matter. Similarly, whilst tree planting and landscaping is largely detailed, with many plots benefitting from frontage hedgerows; outline conditions 7 and 8 require the full detail of these matters. Bin collection points



at the end of shared driveways are also indicated, and the detail of these would be captured by condition 57 of the outline permission.

### Scale and appearance

The housetypes reflect those approved on phase 1. The St. Modwen housing style is inspired by the local vernacular but is steered towards a contemporary interpretation which, having now had the benefit of observing completed plots on phase 1, provides an interesting and high quality development. The housetypes have been further developed since the previous phase and introduce a number of double height glazing insertions in forward gables. These are considered to draw on the inter-war styles elsewhere in Hilton where bay windows achieve the same effect. The scale of the dwellings retains a two-storey massing throughout the phase with the exception of one location, around a square on the intersection of the key road and the green route from the open space. Here, eaves lines on the four plots framing the square are higher and provide a greater sense of enclosure.

Elsewhere, selected properties are set back from the road to create front gardens and create more of a rural character; whereas others are closer to the pavement to reflect the urban environment of Hilton. These subtle changes in position affect the impact the scale of the dwellings have on movement around the streets, particularly for vehicles. Feature plots and those terminating views along streets have been adjusted to properly frame such views and act as landmarks to aid navigation through the development. A mix of materials is proposed which reflects the local vernacular and is considered to be acceptable, partly addressing outline condition 53.

### Viability review

It was established at the outline stage that the development could not sustain the full Section 106 contributions 'package' and 30% affordable housing without returning a negative land value, thus compromising delivery. The development would largely cater for its own day to day needs by way of the new primary school, the on-site recreation provision and the local centre – as well as employment opportunities. Secondary and post-16 education was seen as a priority to receive financial contributions, as was off-site highway improvements. When drawing all these costs together, the proposal could only sustain provision of 10% affordable housing, equating to 49 affordable units comprising 37 for social rent and 12 for shared ownership; this was based on an estimation of sales values and remediation costs.

It is now apparent that the sales values are not as positive as might have first been hoped, whilst remedial works continue to add to the abnormal costs the site must sustain. The viability of the wider scheme has been reassessed by the District Valuer in light of more up-to-date projected costs and actual sales values being realised on phase 1. In order to remain viable, this indicates that the affordable housing quote must reduce further to 6%. Whilst far from ideal, policy H21 makes allowances for such circumstances and, when considering alternative options, it remains preferable to protect the existing Section 106 contributions for education and so forth. A Deed of Variation to the Section 106 agreement would be required to reflect this change, and the reserved matters layout presented under the cover of this report has already



accounted for a reduction to 6% affordable housing provision. The approval of this application thus rests on Members' endorsement of the proposed modification to the Section 106 agreement.

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

## Recommendation

- A.** Grant delegated authority to the Planning Services Manager to complete a Deed of Variation to the Section 106 Agreement to reduce the level of affordable housing required, as set out in the report; and
- B.** Subject to B, **GRANT** permission subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the Site Layout Plan ref. 41049/003 Rev R, the Boundary Treatments Layout ref. 41049/009 Rev C, the Landscape Strategy Plan ref. 50203/01 Rev D, the Materials Plan ref. 41049/008 Rev G and the External Levels Layouts (Sheets 1, 2 & 3) ref. MA10613/PL/600-1, MA10613/PL/600-2 & MA10613/PL/600-3; and housetype drawings ref. FLATS D, H2B706 C, H2B835 D, H3B791 E, H3B839 D, H3B920V1 D, H3B920V2 D, H3B920V3, H3B938V1 D, H3B938V2 D, H3B938V3, H3B965 D, H3B969 C, H4B1149 D, H4B1203 D, H4B1209V1 D, H4B1209V2, H4B1282 C, H4B1381V1 E, H4B1381V2 C, H4B1475V1 D, H4B1475V2 and H5B1665 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).  
  
Reason: For the avoidance of doubt and in the interests of sustainable development.
  2. Rainwater gutters and all soil and downpipes shall have a black finish.  
  
Reason: In the interests of the appearance of the building(s), and the character of the area.
  3. Prior to the first occupation of each dwelling hereby permitted, the new vehicular and pedestrian access to that dwelling shall be constructed and the area within the frontage to the property shall be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.  
  
Reason: To ensure safe and suitable access for all users, in the interests of highway safety.
  4. Prior to the construction of cul-de-sac designed to accommodate turning refuse and service vehicles, revised designs of the turning heads shall be submitted to and approved in writing by the Local Planning Authority. These designs shall ensure a service margin of at least 750mm width is provided to all edges of the carriageway (increased to 1m where street lighting is located

within the margin). The development shall proceed in accordance with the approved designs.

Reason: To ensure adequate space for turning vehicles and protection of services/street furniture, in the interests of highway safety.

5. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the approved plan(s), constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways and footways in front of each dwelling shall be completed with the final surface course within twelve months from the occupation of each dwelling, or in accordance with an alternative timescale/programme first submitted to and approved in writing by the Local Planning Authority.

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

6. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, or within a shared courtyard serving that property, in accordance with the approved plans. 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 garaging/parking/turning facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

7. No dwelling hereby permitted shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an Agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of maintaining suitable access and turning space within the site for occupants', visitors', service and emergency vehicles throughout the life of the development, in the interests of highway safety.

8. The cycle link connection to the phase 1 cycleway shall be provided in accordance with a timetable first submitted to and approved by the Local Planning Authority. Such details shall be provided before the occupation of a dwelling hereby approved.

Reason: To ensure adequate recreation connections are available at the appropriate time.

### Informatives:

1. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
2. 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.
3. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (Tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.
4. Highway surface water shall be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
5. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
6. 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.
7. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation.

There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

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

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

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

**Item**            **1.4**

**Ref. No.**        **9/2018/0256/SGR**

**Applicant:**  
**St Modwen Developments Ltd**  
**c/o Planning Prospects**

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

**Proposal:**    **APPROVAL OF RESERVED MATTERS FOR ACCESS, LAYOUT, SCALE, APPEARANCE & LANDSCAPING OF OUTLINE PERMISSION REF. 9/2013/1044 (FOR THE COMMERCIAL DEVELOPMENT PHASE COMPRISING SIX EMPLOYMENT UNITS FOR USE AS OFFICES (USE CLASS B1(A)), LIGHT INDUSTRY (USE CLASS B1(C)), GENERAL INDUSTRY (USE CLASS B2) AND/OR STORAGE AND DISTRIBUTION (USE CLASS B8)) ON LAND SOUTH OF THE MEASE HILTON BUSINESS PARK HILTON DERBY**

**Ward:**           **Hilton**

**Valid Date**    **08/03/2018**

**Reason for committee determination**

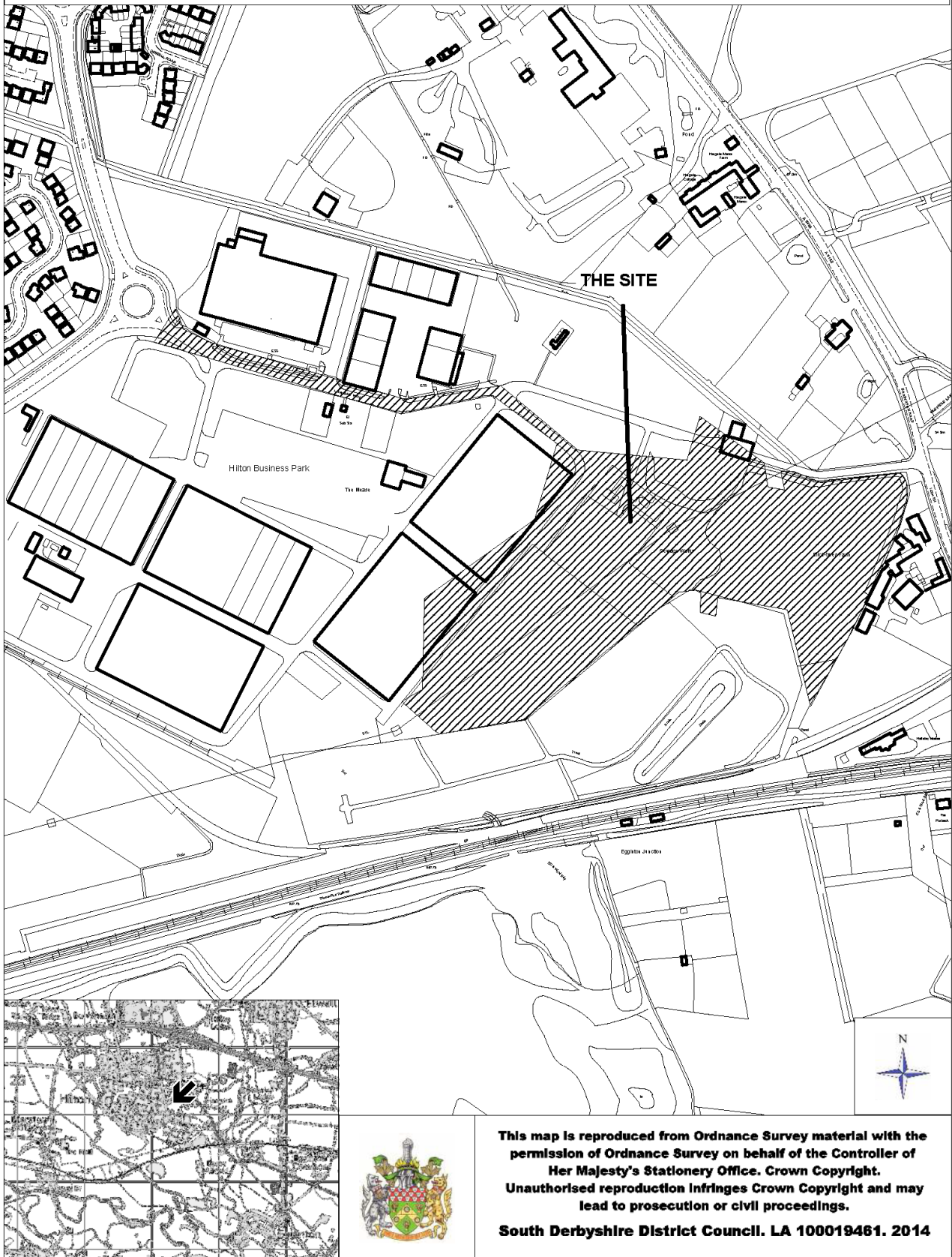
This is a major application with more than two objections. Furthermore Councillor Billings requests consideration by Committee because local concern has been raised.

**Site Description**

The site lies to the north east corner of the former MoD vehicle depot. It is presently vegetated with young trees and bushes, with external boundaries defined by a security fence dating from its former depot use. Immediately to the east there is a range of agricultural buildings associated with Birch Trees Farm. The farmhouse is located about 43 m from the boundary at its nearest point, with a range of utilitarian agricultural buildings in between.

The application site is effectively split into two separate parcels by a watercourse running roughly north-south, the eastern part being larger than the western part.

9/2018/00256 -LAND SOUTH OF THE MEASE, HILTON BUSINESS PARK,  
HILTON, DE65 5JD



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## Proposal

The application proposes contemporary panel clad steel framed industrial/storage buildings. The cladding colours would be a variety of grey tones. The largest building (Unit 1) would be located to the east of the watercourse and adjacent to the boundary with Birch Trees Farm. It would provide 4770 sq m of floor space with a first floor office area amounting to 230 sq m. Its footprint would be some 97m x 49 m, measuring about 11m to the eaves and 13m to the top of the roof.

The service yard would be located between the building and the watercourse.

The roof design has been amended since initial submissions, from a dual pitch to a curved design, resulting in an overall reduction in height of about 1 metre. Amended landscaping proposals include tree planting between Unit 1 and the agricultural buildings at Birch Trees Farm.

The remainder of the proposal comprises two units of 278sq m and three of 216 sq m, located to the west of the watercourse.

Access to all units would be gained via the existing private road to Hilton Business Park off The Mease. The submitted drawings also show how the site would connect to the cycle route along the Greenway to the north

This is a reserved matters application, seeking approval of access, appearance, landscaping, layout and scale only. Matters of principle are controlled by condition attached the host outline permission. Condition 5 to the outline planning permission requires *“the reserved matters submitted in accordance with condition 3 and details submitted with any other condition of this planning permission shall accord with the principles set out in the Development Framework (Figure 6) contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A, received by the Local Planning Authority on 15th April 2014.”* Condition 58 also requires *“The permission shall relate to the amended concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014, as well as drawings Site Access 1 Roundabout Improvements – 5094693-ATK-GE-DR-C-008 Rev P05 and Site Access 2 Roundabout Improvements – 5094693-ATK-GE-DR-C-0007 Rev P02.”*

## Applicant's supporting information

### Background and Context

The proposed employment units form part of the wider redevelopment proposals for the former Hilton Depot which has outline planning permission for a mixed-use development of homes, local neighbourhood centre, a new primary school, as well as public open space and landscaping and over 7ha of new employment development.

This application for the first phase of the approved commercial development follows ongoing delivery of housing by St Modwen Homes. Work is also set to commence on

the first phase of a new primary school which, again, represents significant investment from St Modwen in the site and Hilton generally.

This commercial phase forms a speculative development and is being brought forward, at risk, to attract commercial investment to Hilton fully in line with what has been approved at the outline stage. It is influenced by numerous challenges and constraints presented by the wider site, including (but not limited to):

- Significant on and off-site infrastructure requirements, including provision of a new primary school (as described above)
- Diversion and opening up of a currently culverted watercourse
- Re-profiling of a floodplain to ensure the approved development can be delivered
- Ecological constraints and considerations
- Overhead power lines running through the site
- A foul water pumping station

The constraints listed above have presented numerous challenges to delivery of the approved redevelopment, not least in terms of its financial and commercial viability. Additionally, the proposed redevelopment has presented numerous layout implications where the constraints listed above have limited the achievable developable area and this is exacerbated where the mix of uses required of the approved development has required particularly careful consideration to limit potential conflict. This is also true when considering the approved development in context of the site's neighbouring uses.

In summary, delivery of the approved redevelopment of the former Hilton Depot site is challenging but submission of these Reserved Matters for the first commercial phase confirms St Modwen's continued investment and commitment to delivery of the approved development and will see further investment and job creation as a result.

#### Scale and Layout (of Unit 1 in particular)

Suggestions that the extent of Unit 1 has been previously approved are inaccurate. Conditions 5 and 28 refer to the Framework Plan and Concept (or Illustrative) Masterplan. To provide further context, the approved Design and Access Statement explains at page 20 and again at page 22 that "layout is reserved within this application, a set of development principles are provided to ensure the development concept can be realised; it is these principles that will inform subsequent reserved matters applications. A Development Framework, Illustrative Masterplan and sketch illustrations have been prepared to assist in communicating the development principles being applied for. The Development Framework has been tested by the technical team, ensuring deliverability and viability of the scheme as a whole. It does not fix the exact form of development and alternative solutions may be suitable providing the development principles stated overleaf are delivered"

This application for the first part of the commercial phase of development accords with the approved general parameters and principles as set out. In doing so the proposal:

- Locates the employment/commercial phase of development to the east of the wider site (i.e. where it has always been envisaged).
- Includes landscaped buffers between the employment uses, residential dwellings and adjacent development. This includes planting of Hornbeams and Oak trees within the eastern boundary with Birchtrees Farm, to provide a vegetated screen between the farm buildings and the proposed Unit 1. The boundary between these ranges from circa 5.5m to circa 14m with oak trees to be provided within the wider boundary areas to the north, i.e. those that are potentially visible from the farm house itself. The submitted a visual montage shows the longer-term views from the farmhouse's window facing the site. This shows that the existing farm buildings effectively screen the majority of the proposed Unit 1 and where there is a view over, or through, the farm buildings the tree screen will be effective. Additionally, it should be noted that the distance between the proposed Unit 1 and Birch Tree farm house itself is circa 50m, with numerous farm buildings in between, and as a result there will be no impact on the farm house's ability to receive natural daylight.
- Additionally, hedge and tree planting is proposed along the northern site boundary to provide screening of the north facing elevation of Unit 1 with native trees and shrub beds when viewed from the closest points on the existing Greenway and footpaths. This mix has been proposed to retain a green setting in this location.

These design and landscape features have been included specifically to ensure that the development relates well to neighbouring uses.

This Reserved Matters proposal is also required to satisfy Outline condition 23 in providing more than 929 sq.m (GEA) of employment floorspace and Outline condition 24 in providing more than 7.7 ha of employment land.

The layout of Unit 1, in particular, is heavily influenced by the realigned/opened up watercourse which is being delivered as a result of the wider site's redevelopment, as well as the overhead power line and generally constrained access into this part of the wider redevelopment site.

#### Access Road and Cycleway

It is proposed that the route will run alongside, but separated from, the site road. The site road will also be the subject of a programme of improvement works, the final details of which are to be completed. The highway and cycleway will be maintained as part of the wider site's ongoing maintenance and management programme as required by the S106 accompanying the outline planning permission.

#### 24 Hour Use (Noise and Lighting Implications)

Matters of noise and lighting relative to the commercial phase of development are controlled by conditions attached to the outline planning permission, which are being discharged separately. Generally, the positioning of the commercial buildings and service yards have been designed to limit noise impact and contribute to the mitigation measures with regards noise.

The proposed lighting has been specifically selected to minimise light spill from the commercial areas. Those selected for the roadway will direct light to access areas and highway only where luminaires are generally angled to prevent direct line of sight which minimises glare. Lighting proposed within the commercial service yards is building mounted and directed to the yards only, to minimise spill into neighbouring properties.

#### Surface Water from Birch Trees Farm

Drainage ditches that serve the farm have been accommodated with a positive connection to the realigned/opened up channel being delivered as part of the wider site's redevelopment to maintain current surface water flows.

### **Planning History**

9/2013/1044      Outline application with all matters except for access reserved for a mixed used development comprising up to 485 dwellings; employment units for use as offices and/or light industry, general industry and/or storage or distribution; a primary school; community facilities including doctors, dentist and/or crèche; retail and other service uses consisting of financial and professional services, restaurants and cafes and/or hot food takeaways, and assembly and leisure along with associated access, parking, footpath/cycleways, public open space including allotments, landscaping and other infrastructure – Approved March 2015

Condition 5 requires reserved matters applications to accord with the Development Framework contained within the Design and Access Statement. An illustrative Masterplan shows the general layout of the entire site, identifying the areas for housing, open space, commercial and a new primary school and how they are to be linked.

### **Responses to Consultations**

The Highway Authority and Environment Agency have no objection.

### **Responses to Publicity**

The Parish Council raises concerns about access and parking, as street parking is having a detrimental effect on the village. There would be increased traffic around the new primary school and there is no crossing.

Three objections have been received from neighbours raising the following points:

- a) Surface water from Birch Trees Farm presently discharges within the application site. If provision is not made for this it would lead to flooding of farm buildings
- b) The size of the Unit 1 is nearly twice the size as that previously shown on the illustrative master plan submitted with application 9/2013/1044. The building

- would overshadow Birch Trees Farmhouse and adjoining buildings such that there would be far less natural daylight. Typically the adjoining farm buildings have a ridge height of 5.5 metres and would appear dwarfed in comparison.
- c) The setting of the farmstead and its context within open countryside would demonstrably change and be significantly adversely affected. The extent of the building should be as shown on the illustrative master plan and the overall height should be reduced to reflect those in the immediate vicinity, namely those at Birch Trees Farm.
  - d) The proximity of the nearest commercial building is considered far too close to Birch Trees Farm boundary, leaving insufficient space to allow adequate screening between the two sites. Given the height and overall massing of the proposed Unit 1, this distance should be significantly increased so as to protect the setting and character of Birch Trees Farm.
  - e) The size of the buildings would cause unacceptable impact on the character of the countryside and the greenway/rights of way.
  - f) There would be noise and light pollution (Officer comment - these matters are controlled through conditions attached to the outline permission).
  - g) The road through the Business Park is private and not suitable as a cycle route.
  - h) The amended drawings do not improve the amenity impacts on neighbours

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1, S2, S6, E1, SD1, BNE1, BNE4, INF2
- 2017 Local Plan Part 2: BNE7

## **Emerging Policies**

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

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Compliance with outline permission

- Impact on the general character of the area
- Residential amenity
- Access

## **Planning Assessment**

### Compliance with outline permission

Issues of principle have been resolved through the grant of outline planning permission, having regard to the relevant policies and other material considerations. In particular, controls on drainage, noise, lighting and landscape management will be implemented via the outline permission.

Condition 3 of the outline permission requires development to “accord with the principles set out in the Development Framework”. This sets out areas for each component of the overall development and the application is compliant.

Condition 58 states that the outline permission “shall relate to the amended concept Masterplan”. This sets out general layout principles showing how the various land uses will connect. The Masterplan does not, however, set out a prescriptive layout and the Design and Access Statement makes it clear that it is illustrative only. This is entirely typical for large scale major development at outline stage.

In this context the specific characteristics of the reserved matters fall to be considered on their own merits.

### Impact on the general character of the area

The proposal lies within an area situated next to existing business development and its scale layout and appearance is thus in keeping with the land use characteristics of this part of the previously developed MoD vehicle depot.

The layout is clearly very heavily influenced by the watercourse running through the site, which will be altered to accord with Environment Agency requirements for the outline site as a whole, to secure hydrological and ecological benefits. Nevertheless the new buildings, in particular Unit 1, would be visible from the public realm, notably Egginton Road and the greenway. The development would thus have an impact on the general rural character of this edge of village setting. However the application proposes landscaping, in particular tree planting along the eastern and northern boundaries which would soften the visual impact from outside the site and from the adjoining farmstead and farmhouse. The neutral colour palette would also help to mitigate the impact of the building’s mass. The other buildings would be subservient to Unit 1 and set away from the boundaries, such that their visual impact would be minimal.

In terms of landscape character the surrounding open countryside is identified in The Landscape Character of Derbyshire as Trent Valley Washlands. Given the location of the site, within a larger area of previously used land, there would be no adverse impact on any identifiable valued landscape.



Given these design and landscaping considerations the proposal would be in accord with Local Plan Policies BNE1, BNE4 & BNE7.

### Residential amenity

The largest building (Unit 1) would be located close to the boundary of the site with Birch Trees Farm (varying between 6m – 7.5 m away for most of the building's length). The agricultural outbuildings are also situated close to this boundary. As they are in use for the farm business, with their openings facing away from the application site, there would be no demonstrable impact on the amenities of people working in those buildings.

Birch Trees Farmhouse has some habitable room windows facing westwards towards the application site, in particular the kitchen. However the main aspect of the house, and its garden, are orientated to the south east, so outlook from this primary aspect, and sunlight to it, would not be significantly adversely affected. There are no distance guidelines for commercial development, (although local Housing guidance seeks 12 metres separation distance between main windows and a two-storey proposed blank elevation, with increased distances for larger buildings being a matter for judgement). The nearest part of Unit 1 to secondary windows in the west facing elevations of the house would be about 50 metres, with the existing agricultural buildings in the foreground between them.

Taking into account the orientation of the farmhouse, the distance of the proposed building from the rear elevation, the intervening farm buildings, the cladding materials and tree planting, Unit 1 would not result in unacceptable harm to the living conditions of the occupiers of the dwelling. Other amenity issues, in particular noise and lighting, are controlled by the outline planning permission.

Having regard to the particular site circumstances as described above, the proposal satisfies the test in Local Plan Policy SD1, to support development that does not lead to adverse impacts on the amenity of existing occupiers around proposed developments.

### Access

Vehicular access would be gained through the existing road serving Hilton Business Park, which has a satisfactory junction with The Mease. The capability of the site and highway network, to accommodate the development, has already been assessed through the outline permission. Each unit has provision for parking and servicing and the Highway Authority has no objection. The proposal would also provide links to the nearby greenway/cycle path to facilitate opportunities for access by walking and cycling, all in accordance with Local Plan Policies S6 and INF2.

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

## **Recommendation**

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

1. The development hereby permitted shall be carried out in accordance with plan/drawing ref. nos. 18006-GNA-XX-XX-DR-A-0003 Rev A and 18006\_GNA-XX-XX-DR-A-0004 received with the application, and 18006-GNA-XX-XX-DR-A-0020 Rev B, 18006-GNA-XX-XX-DR-A-0021 Rev A, 18006-GNA-XX-XX-DR-A-0022 Rev A, M16.157(a).D.001 Rev D and M16.157(a).D.002 Rev B received on 15 May 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.

### Informatives:

1. From representations received the adjoining farm may enjoy rights to drain to the application site and you are advised to ensure that any such matter is resolved with the landowners.

**Item**            **1.5**

**Ref. No.**        **9/2018/0269/FM**

**Applicant:**  
**Harpur Crewe LLC**  
**c/o Agent**

**Agent:**  
**Mr S Raju**  
**R3design Developments Ltd**  
**The Glasshouse**  
**9 Hallam Close**  
**Littlethorpe**  
**LE19 2LA**

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

**Ward:**           **Repton**

**Valid Date**    **05/03/2018**

This application is to be considered jointly with an application for conservation area consent 9/2018/0289 below.

### **Reason for committee determination**

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

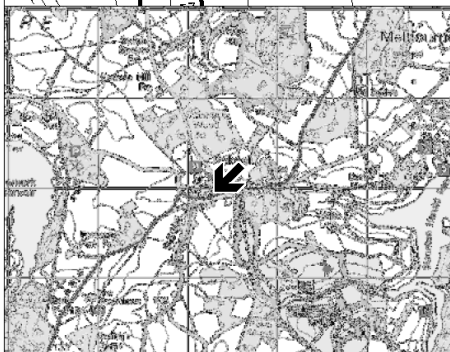
### **Site Description**

The application site is located to the north eastern part of the village, and currently forms part of the rear garden to 31 Chapel Street. The outbuilding to which this application relates is a single storey building constructed in red brick with sections of stone under a plain clay tiled roof. The building is set back from Chapel Street behind a flat roofed garage and the building forms part of the boundary of the site with the adjacent 35 Chapel Street.

The site is bound to the north, east and west by existing domestic boundaries, with what is now the extended domestic curtilage of 29 Chapel Street beyond the northern boundary of the site. To the south is Chapel Street beyond which lie a number of bungalows with the main road though Ticknall further to the south which runs parallel to Chapel Street.

The application site is located within the settlement boundary for Ticknall as identified within the Local Plan Part 2, and lies within the Ticknall Conservation Area. Whilst the building itself is not identified within the Conservation Area Character

9/2018/0269 & 9/2018/0289 - 314 CHAPEL STREET, TICKNALL, DE73 7JY



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Statement the adjacent dwellings (Nos 29, 31 and 35) are identified as other buildings with contribute positively to the special architectural or historic character of the conservation area.

## **Proposal**

The proposal is submitted in two parts, and as such has resulted in two applications. The first being an application for conservation area consent for the demolition of part of the front boundary wall to the site, and the second for planning permission for the conversion of the building.

The proposal is for the demolition of the existing garage and the conversion of the existing brick built building in to a one bedroom dwelling. The existing building is single storey and L-shaped in plan. Internally the outbuilding is sub-divided by brick walls into three separate spaces, with the remnants of a chimney apparent. The proposal includes the creation of a new domestic curtilage by sectioning off part of the existing garden for No 31. An extended car parking area is proposed to serve the existing and proposed dwelling.

## **Applicant's supporting information**

A Planning and Heritage Statement with Design & Access Statement describes the development proposals, the site and its historical background. The development plan policies are considered and summarised as are the main relevant elements of the NPPF. The principle of development is considered to be appropriate due to the sites location within Ticknall, identified by the local plan as a Local Service Village where new residential development is considered to be appropriate. The statement highlights the proposals benefits in terms of offering an economically viable means of securing the long term future of the building as supported by policies BNE2 and BNE10. The findings of the structural report are noted insofar as the existing building is considered to be capable of conversion in to a dwelling with alterations to the building seeking to retain the overall character and appearance of the building through the re-use of existing openings (where possible). The statement notes that the building is not in an isolated location where more rigorous standards are applied to conversions. The amenity of neighbouring dwellings is considered to be protected, with 80 sq.m of amenity space proposed for the dwelling, with existing windows and openings re-used where appropriate. The building is not considered to make a particularly strong contribution to the appearance of the area due to being set back from the street frontage and largely hidden by an existing flat roofed garage. However, due to the buildings overall age and association with the neighbouring cottage the building illustrates an aspect of the areas historical development and contributes to the areas overall character. The building is considered to be underutilised and its loss through neglect would be contrary to policy BNE10, the proposals seek to secure the long-term preservation of the building offering a sympathetic and considered approach to the conversion of this building that will minimise harm to the building and to the overall character and appearance of the area. The removal of part of the front boundary wall is not considered to be out of context with the character of Chapel Street, creating a balance in the immediate street scene akin to the lack of boundary wall to the frontage of No 29 Chapel Street. Overall these proposals are intended to bring forward a high quality, sustainable

residential development, that makes the most beneficial use of this under-utilised building without compromising the quality or the amenities of the surrounding area and the proposal would not harm the character or appearance of the Conservation Area or the setting of the designated heritage assets within the vicinity of the site.

The Structural Report accompanying the application assess the existing building and notes the following points; The sagging roof and purlins; Perishing mortar in places, with some areas of spalled brickwork; End gable walls being only 100mm thick; No signs of foundation movement; and that the trial pit excavated shows a sandstone foundation. Recommendations are made that; If the reduction in floor level exceeds 425mm from the existing internal floor level is likely to require underpinning; All existing roof rafters and purlins should be replaced; Timber trusses require further inspection if they are to remain; Fixing of ridge beams to prevent the roof spreading; Strapping required at all junction of external walls; and strengthening of the end gable walls as part of the conversion. The report concludes that subject to the remedial works being carried out the building is suitable for conversion from the structural view point.

A letter commenting on the responses received on the application has been submitted on behalf of the applicant. The letter comments on the objector's locus being an occupier adjacent to the development, the comments on the structural condition of the building and its ability to withstand the conversion being anecdotal given the lack of engineering qualifications and expertise. The overall support for the proposal in the development plan for development within settlement boundaries is noted and the fact that the development clearly comprises sustainable development. The letter notes that the only empirical evidence before the Council is the Structural Report prepared by a Chartered Engineer and Member of the Institute of Civil and Structural Engineers which concludes that the building is suitable for the proposed conversion works subject to undertaking a number of recommended remedial measures;

*"The building does not require extensive demolition and there are no concerns regarding foundation movement. Therefore we conclude that the building is suitable for the proposed conversion works from the structural viewpoint."*

Form a planning viewpoint, this evidence should be more than sufficient to satisfy the Council, with any matters of detail, including if necessary method of construction being capable of being dealt with by condition. In terms of the removal of a section of wall there is no evidence of the historic importance of the wall. The wall is not statutorily listed and no direct reference is made to it (or the wider application site) within the Conservation Area Character Statement, the same comment applies to the removal of the chimney. The minimal harm (if any) caused by the removal of the chimney will be more than outweighed by the public benefits outweighed by the public benefits of bringing the building back in to beneficial use and the demolition of the garage.

## **Planning History**

No determined applications relevant to the current proposals.



## Responses to Consultations

The Highway Authority consider that due to Chapel Street not being an adopted road any off-site car parking is likely to cause an inconvenience to local users rather than a highway safety issue. Given this matter the Highway Authority do not consider that an objection could be sustained and therefore do not object to the proposal.

The Development Control Archaeologist considered that should the building be converted a pre-conversion programme of building recording should be undertaken and secured by condition.

## Responses to Publicity

Ticknall Parish Council objects to the proposal for the following reasons.

- i) The Parish Council objects to the demolition of part of frontage wall.
- ii) The Parish Council requests that you pay attention to the detailed letter, and his expertise on the subject that you have received from Mr. B. Wolsey on the matter.
- iii) The Parish Council requests that the Planning Application goes to the Planning Committee for a decision.

3 objections have been received, raising the following concerns;

- a) Structural Survey; Does the building have a sandstone foundation?  
Insufficient information has been submitted to demonstrate that this is true. As a result of gardening experience adjacent to the site earth below the top soil is generally sedimentary rock such as that detailed within the submitted structural report and this questions whether there is a foundation for the building, without which it would undermine the consultants conclusions that the building is sound and capable of conversion. The internal reduction in floor levels by up to 600mm in places would leave part of the perimeter walls standing on unsupported ground. In addition, the chances of there being a solid sandstone foundation as shown on the survey drawings on the eastern wall is unproven and highly unlikely.
- b) The Proposals; Whilst the submitted survey is accurate, the proposed drawings indicate a horizontal eaves and not one rising with the ground as shown on the survey. The increase in heights, will need new brickwork and likely 'bodged brickwork' that is not appropriate for a conservation area. The reduction in ground levels internally of up to 250mm which with the required internal slab would be some 600mm of excavated depth, and 750mm externally. The excavation works outside the building will be below the level which the brickwork commences it is not clear how new brickwork can be inserted below the level of the existing, which in any event would not be allowed under Building Regulations.
- c) Why does this all matter?; What has been submitted is not possible to execute. No method statement has been submitted so it is assumed that during the building works the external walls will be in danger of collapsing which if underpinning is commenced then collapse of the building is inevitable. As such this cannot be considered to be a conversion and the

proposals will actually result in the destruction of the very heritage asset that they seek to protect.

- d) Visual Impact and Impact upon the Conservation Area; The demolition of a section of wall adjoining No 35 Chapel Street, which appears to have been done to facilitate access to two parking spaces. However, with the demolition of the garage there appears no apparent justification for the removal of this historically important wall and as such there is no justification for its demolition. The justification for this removal refers to balancing the open area to the west of No 29, this area has been open since before the designation of the conservation area, and these areas cannot be considered alike and the justification does not stand up to scrutiny. There are a number of errors in the reports including reference to the removal of the cherry tree which appears to be retained and reference to the building of a new kitchen. The creation of an independent dwelling has forced the unnecessary use of fencing and walling along the new boundary which are alien features in the conservation area. The removal of the chimney is not explained or justified. The demolition of the existing garage on the site is one part of the proposals which can be supported.
- e) Impact upon on-street parking and highway safety; The proposal makes no provision for additional off-street parking, as such the potentially generated two additional spaces required will result in on-street parking on Chapel Street. There is already an acknowledged parking problem, most of which is as a result of the Council's failure as landlord to make any provision for its own tenants in the bungalows. There is therefore considerable competition for spaces especially at weekends when visitors attempt to park. There are no turning facilities on Chapel Street.
- f) Historical Significance of the building; There are a number of outbuildings in Chapel Street and this is the biggest, most prominent and potentially important due to its possible previous uses either as a washhouse, blacksmiths or Brewhouse or any number of trades that were carried out in Ticknall and this proposal would result in the unwarranted loss of this historical asset.
- g) Residential amenity; The building would provide a very poor standard of amenity for the prospective occupier with little outlook and a miniscule garden. The fencing and obscure glazing to the kitchen compounds this unsuitability. There would be little privacy between the new and existing dwelling which itself would be left with an awkwardly configured garden.
- h) Putting the building to a good viable use; The existing building is only unused as the applicants emptied it last summer, and could continue to be used as an ancillary structure to no 31 as now the residents have no external storage and the proposal will result in more unwarranted buildings.
- i) Protected species; A report covering all protected species is an omission, at the very least some work should have been done on the possibility of nesting birds being present.
- j) Why two applications?; The reasoning for this would be to allow one application to run whilst appealing non-determination after 8 weeks. This displays a lack of confidence in the local planning authority and a disdain for its competence in determining the application.
- k) No consideration for the already difficult parking on Chapel Street
- l) The proposal would not be an asset to the Conservation Area;

- m) Impact of the build process on access to the dwellings on and accessed from Chapel Lane.

1 letter of support has been received, raising the following points;

- a) This application for infill is supported which would remove a derelict eyesore and is compliant with Parish Council policy to support sympathetically designed infill in preference to new sites in a conservation area.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF8 (The National Forest); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); BNE2 (Heritage Assets)
- 2017 Local Plan Part 2: BNE10 (Heritage); H28 (Residential Conversions); BNE7 (Trees, Woodland and Hedgerows); SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Ticknall Conservation Area Character Statement (CACS)

## **Planning Considerations**

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

- The Principle of development
- Heritage and design matters
- Highway safety
- Other matters

## **Planning Assessment**

### The principle of development

The application site is located within the settlement boundary for Ticknall as defined by the Local Plan Part 2, with Ticknall itself identified by policy H1 as a Local Service Village. Within settlement boundaries the principle of new residential development (including conversions) is considered to be acceptable.

As the site is located within the Ticknall settlement boundary the detailed requirements of the residential conversions policy (H28) is not directly relevant as this policy specifically relates to conversions outside of the identified settlement boundaries. Therefore the suitability of the building for conversion does not in principle stand or fall based on the building being suitable for conversion without extensive alteration or rebuilding as a new or replacement building would also be acceptable in principle.

### Heritage and design matters

The principal character of Chapel Street is defined by the regular pattern of evenly sized plots along its northern side, to its southern side there are generally unsympathetic modern bungalows. The subject building is set back from the road frontage by around 12m and is somewhat hidden by the more significant buildings of Chapel Street (Nos 29, 31 and 35) which are identified by the CACS as buildings with contribute positively to the special architectural or historic character of the conservation area and an existing flat roofed garage such that the building is not a prominent building within the conservation area.

The building is currently in a rather poor state of repair with little works having been undertaken on the building in the recent past. The building is likely to be of late 19<sup>th</sup> Century origin has some historic interest such that it is considered to be an undesignated heritage asset. Its original use is for all intents and purposes a mystery but it could have been used to keep animals or some form of local industry likely associated with the main dwelling. Whilst undesignated it is considered appropriate that the building is recorded in its current state of repair.

The application includes for the demolition of the existing garage to the south of the outbuilding. The garage is of blockwork construction with a mono-pitch roof and is of no architectural or historic interest and generally detracts from the character and appearance of the conservation area, such that its demolition would be a positive enhancement of the area better revealing the traditional building behind it.

The application is supported by a detailed survey of the building and a structural report. The report concludes that the existing building is capable of conversion subject to remedial works identified which includes re-pointing, some underpinning and replacing badly spalled areas of brickwork, some rebuilding and re-roofing of the building. These works are considered necessary in order to preserve the building and allow for its re-use for primary living accommodation. The subject of this survey and the suitability of the building for conversion and the proposed conversion works have come under significant criticism in one of the objections received. It does need to be noted at this point that the structural stability of the building and its ability to withstand the conversion is not a requirement of the relevant planning policies as it would be for conversions outside of settlement boundaries but the fact that the application is for the conversion of the building rather than a new building results in the ability of the building to be converted being a material consideration as is the desire to retain this undesignated heritage asset. The fact that areas of underpinning (where the internal floor is to be lowered), reconstruction and repointing are proposed is not considered to be a reason to object to the development but rather a reason to support the proposal. These works would secure the long term retention of

this building within the conservation area. In order to ensure that the works are carried out as proposed it is considered appropriate to condition a method statement for the conversion works themselves to ensure that the main fabric of the building is retained.

The external appearance of the building will remain relatively unchanged, the external brick facade would be cleaned, damaged bricks replaced as required, the re-building of minor elements of the building which have slipped (including an area to the south-western corner of the building), and the re-use of existing Staffordshire blue plain clay tiles in the re-roofing of the building albeit on new roof purlins and rafters. The existing openings are re-used with some minor alterations to the detail proposed such as the enclosing of an existing door and its replacement with a window, with infilling and minor alterations to openings, the existing chimney is removed and roof lights have been added to two of the less visible elevations of the building.

The proposed conversion is considered to be generally sympathetic to the character of the building, and subject to conditions controlling the detail of the windows, doors, rooflights, and repairs preserves the character and appearance of the conservation area and the building would not be altered or reconstructed to such an extent that the intrinsic character of the existing building would be lost rather the building would be preserved and its conversion would enhance the character of the conservation area.

The development is served from Chapel Street, and a section of the existing front boundary brick wall, some 1.2m high, would be demolished to allow the creation of a new extended parking area. There are varied boundary treatments along Chapel Street with a mixture of brick walls, timber fencing and soft landscaping to denote and differentiate between the public and private realm. While the proposal would result in the loss of part of the wall, the majority of the wall would be retained and the provision of a wider gap between boundaries is not uncharacteristic along this street. The removal of part of the boundary wall is therefore not considered to result in substantial harm to the character or appearance of the area and the historic sense of enclosure to front boundaries in the area would be maintained to an appropriate degree. In addition, areas of hardstanding are also found to the front of dwellings and with the majority of the front garden retained the proposed degree of parking and hardstanding is not considered to be substantially or significantly harmful.

The existing garden area to no. 31, Chapel Street is to be sub-divided to provide private amenity/garden space for the proposed dwelling as well as no. 31. A high level close boarded fence already exists between the house and the garage which closes off the site with the majority of the building obscured by the fencing and existing garage. The proposed low level retaining wall and post and rail fence would encourage a degree of inter-visibility between the existing building and the street scene opening up currently closed views of the building from the public realm.

The ability to appreciate key groups of historic buildings and key views within the conservation area would remain unchanged as a result of the proposal, and the demolition of the existing flat roofed garage would enhance the character of the conservation area. Overall the proposal is not considered to cause detrimental harm

to the character or significance of the Ticknall Conservation Area indeed the conversion itself is considered to enhance the character of the area though securing the retention of the building itself and better revealing it beyond the realms of the site itself. The demolition of part of the frontage boundary wall would result in harm to the character and significance of the conservation area but this harm is considered to be less than substantial such that the public benefits resulting from the creation of a new dwelling through bringing the building back in to beneficial use and the albeit limited public benefits created though the building supply chain would outweigh this limited less than substantial harm identified.

### Highway safety

The application as detailed above includes the removal of a small section of wall in order to extend the existing parking area. The proposed parking area whilst shown with two spaces measures at its narrowest 6m x 10.8m which would be sufficient to accommodate 4 parked cars albeit ever so slightly short of the required minimum (noting that the Councils minimum standards for car parking spaces is 2.4m x 5.5m with an extra 0.5m required where spaces abut a wall as is the case here). As Chapel Street is a private highway and not adopted any off-site parking (which would be unlikely given the space available) would cause an inconvenience to local users of Chapel Street rather than result in a highway safety issue. As such the proposal is not considered to result in any highway safety concerns and as such complies with the requirements of policy INF2.

### Other matters

Residential amenity: As the site is surrounded by existing dwellings consideration has been given to the impact of the proposal on the amenity of these dwellings in accordance with the requirements of policies SD1 and BNE1, and the guidance contained within the South Derbyshire Design SPD. Due to the separation distances between the proposal and adjacent dwellings, the single storey nature of the proposed conversion, and the proposed boundary treatments no issues of overlooking have arisen. Whilst the development would result in a reduction in the amenity space for the existing dwelling sufficient space is retained that would allow for usual domestic activities to take place in comfort.

Protected Species: The subject building has been visited (including an evening activity visit) and assessed by Derbyshire Wildlife Trust as having a very low suitability to support roosting bats with no activity. Given there being no reasonable likelihood of roosting bats using the building no specific bat survey of the building was deemed necessary.

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 drawing Nos 17.183.03 and 17.183.04; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

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

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

4. No development shall take place until a Written Scheme of Investigation for historic building recording has been submitted to and approved by the Local Planning Authority in writing, until all on-site elements of the approved scheme have been completed to the written satisfaction of the Local Planning Authority, and until the provision to be made for analysis, reporting, publication and dissemination of the results and archive deposition has been secured. The Written Scheme of Investigation shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
2. The programme and provision for post-investigation analysis and reporting
3. Provision to be made for publication and dissemination of the analysis and records of the site investigation
4. Provision to be made for archive deposition of the analysis and records of the site investigation
5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

5. Prior to the commencement of development (other than investigative works) a detailed method statement for the conversion works, including all details of

remedial works necessary to convert the building shall be submitted to and approved in writing by the Local Planning Authority, the works shall be implemented in accordance with the approved details.

Reason: To ensure the works required do not exceed those envisaged during the application and that the development falls within the scope of this permission.

6. Large scale drawings to a minimum scale of 1:10 of external joinery (doors and windows), including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

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

7. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The approved rooflights shall be installed in accordance with the approved details and fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority prior to their installation and thereafter installed in accordance with the approved details.

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

9. All works of alteration and making good of the existing fabric of the building and boundary wall shall be carried out in matching reclaimed brick, coping and plain clay tiles, samples of which shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building and retained walling.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided within the curtilage of the dwelling in accordance with the approved drawings. Thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the parking area shall be retained for that purpose within the curtilage of the site.

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

11. 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 there has been submitted to and approved in writing by the Local Planning Authority detailed plans (including sections where necessary) indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

12. Prior to the first occupation of the hereby approved dwelling a scheme of landscaping (both soft and hard including any new hard surfacing) shall submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

14. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the existing tree to the site frontage shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the tree to the site frontage from undue disturbance.

15. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

16. Pointing of the existing/proposed building(s) shall be carried out using a lime mortar mix of either lime putty or NHL 2 in a 1:2.5/3 ratio (lime:sand) using a sharp, well-graded aggregate unless alternative details are first submitted to and approved in writing by the Local Planning Authority. The finished joint shall be slightly recessed with a brushed back finish.

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

Informatives:

1. This permission is for conversion and it does not convey any right to demolition and replacement by a substitute building. Any further demolition/replacement necessitated by on-site works should be first agreed in writing by the Local Planning Authority.

**Item**            **1.6**

**Ref. No.**        **9/2018/0289/CC**

**Applicant:**  
**Harpur Crewe LLC**  
**c/o Agent**

**Agent:**  
**Mr S Raju**  
**R3design Developments Ltd**  
**The Glasshouse**  
**9 Hallam Close**  
**Littlethorpe**  
**LE19 2LA**

**Proposal:**    **RELEVANT DEMOLITION CONSENT FOR DEMOLITION OF  
EXISTING GARAGE AND PART OF FRONT BOUNDARY WALL AT  
31 CHAPEL STREET TICKNALL DERBY**

**Ward:**           **Repton**

**Valid Date**    **05/03/2018**

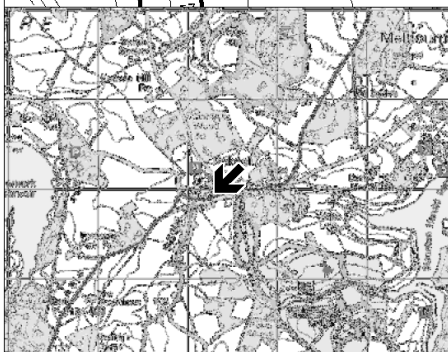
This application is submitted pursuant to the proposed demolition of part of the frontage boundary to facilitate the provision of an enlarged parking area, and the existing garage on the site. The merits of the case are examined in the companion application for the conversion of the building to a dwelling under 9/2018/0269 above.

### **Recommendation**

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

1.     The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.  
  
Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2.     No demolition of the front boundary wall shall take place until a contract for the implementation and construction of the development approved under planning permission ref: 9/2018/0269 or any subsequent planning permission(s) granted pursuant to section 73 of the Town and Country Planning Act 1990 has been secured. If for any reason that development does then not commence within 6 months of the demolition of the existing building, a scheme for the restoration of the land shall be submitted to and approved in writing by the Local Planning Authority. The land shall then be restored in accordance with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.  
  
Reason: In the interests of the visual amenity of the locality, which is within a designated Conservation Area.

9/2018/0269 & 9/2018/0289 - 314 CHAPEL STREET, TICKNALL, DE73 7JY



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**South Derbyshire District Council. LA 100019461. 2014**



**Item**            **1.7**

**Ref. No.**        **9/2017/0524/RSD**

**Applicant:**  
**Mr J Ottewell**  
**c/o Agent**

**Agent:**  
**Tim Farley**  
**Copesticks**  
**39 Tudor Hill**  
**Sutton Coldfield**  
**Birmingham**  
**B73 6BE**

**Proposal:**    **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE & LANDSCAPING FOR THE ERECTION OF 17 DWELLINGS UNDER PLANNING PERMISSION REF: 9/2014/0287 ON LAND AT SK3925 1974 EAST OF STATION ROAD MELBOURNE DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **19/05/2017**

### **Reason for committee determination**

The item is presented to Committee as the application is for a major development and more than two representations have been received.

### **Introduction**

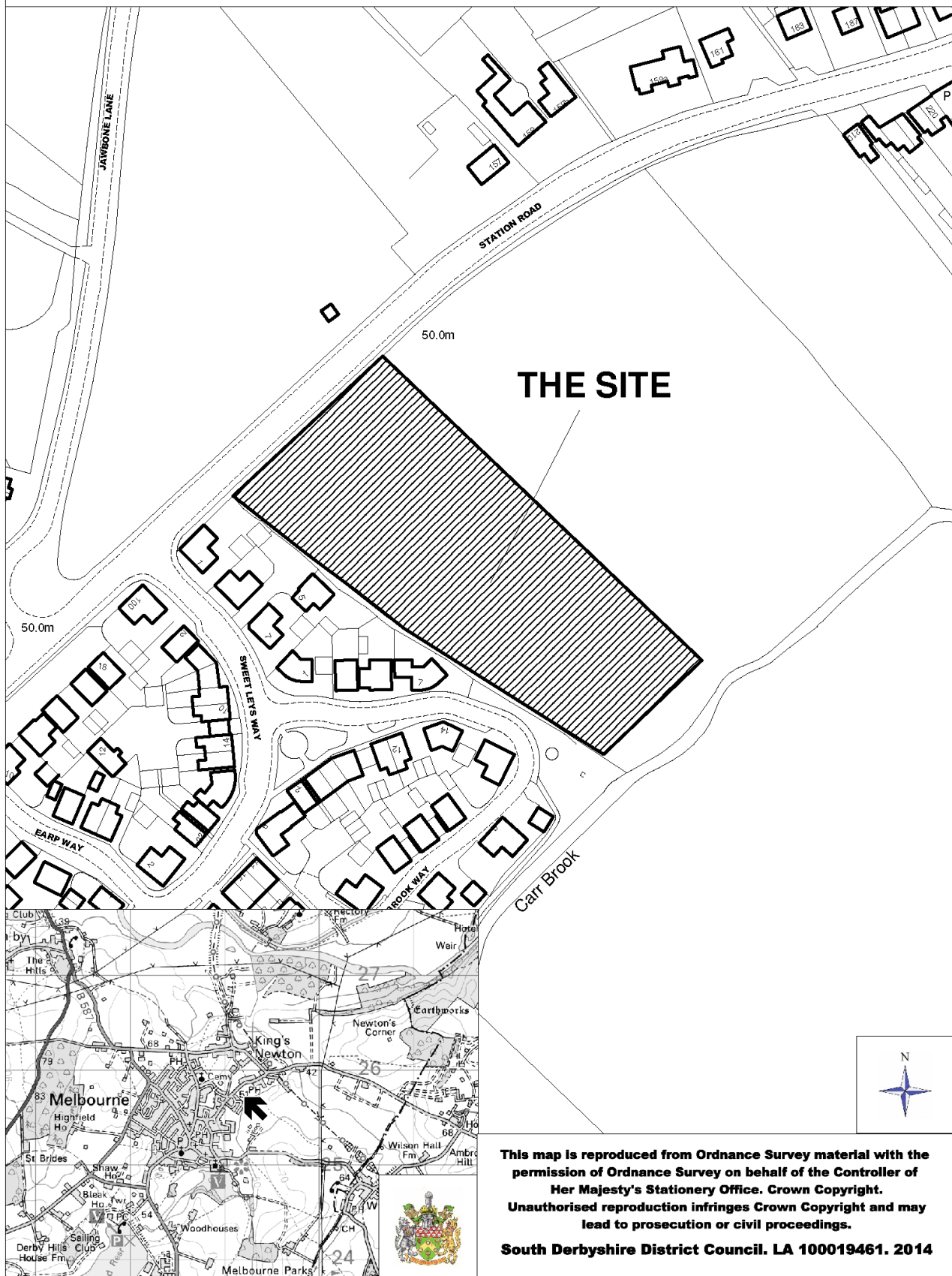
This report has been prepared for two separate planning applications, both for reserved matters applications on land at Station Road, Melbourne. The development is split in to two phases:

- Phase 1 relates to the reserved matters application 9/2017/0524 granted outline permission (including access) under 9/2014/0287 for 22 dwellings;
- Phase 2 relates to the reserved matters application 9/2017/0525 granted outline permission under (including access) 9/2015/0119 for 24 dwellings.

### **Site Description**

The site is located to the eastern side of Melbourne to the south of Station Road and adjacent to the Sweet Leys Way development. Overall the site extends to 2ha, phase 1 relates to a 0.8 hectare site directly adjacent to existing dwellings and phase 2 is 1.2 ha site. The site is currently rough grassland, with a 2/3m high hedge forming the sites boundary to Station Road, the Carr Brook runs along the southern boundary of the sites. A drainage ditch runs along the western boundary of the site

9/2017/0524 - Land at SK3925 1974, East of Station Road, Melbourne,  
Derby DE73 8BQ



in-between the site and the development on Sweet Leys Way, with a further ditch to the centre of the site which splits phases 1 and 2.

The site is generally square and slopes to the south east and surrounding land rises again at the boundary with Carr Brook.

The whole site is allocated for residential development within the Local Plan Part 2 under policy H23D and is included within the Melbourne settlement boundary as identified within the Local Plan Part 2.

## **Proposal**

Following the granting of outline permissions for the site, it is proposed to erect a total of 40 dwellings on the site. Both applications are for the reserved matters approval for layout, scale, appearance and landscaping.

Phase 1 accounts for 17 dwellings, with a mix of dwelling types, size and tenure. 2 x 2 bed dwellings, 11 x 3 bed dwellings, 2 x 4 bed dwellings, and 1 x 5 bed dwelling, proposed with 30 % affordable housing provision (5 dwellings).

Phase 2 proposes 23 dwellings, again with a mix of dwelling type, size and tenure. 4 x 2 bed dwellings (including an adapted dwelling providing a ground floor bedroom), 16 x 3 bed dwellings, and 3 x 4 bed dwellings, proposed with 30 % affordable housing provision (7 dwellings).

A single estate road would serve the development, accessed from Station Road and creating an access point through the existing hedge (noting that the point of access was approved at the outline stage), with the main access road curving through the site. A minimum of 2 parking spaces per dwelling would be provided. Drainage for each of the phases is proposed in the form of two separate basins to the southern side of the site in-between the development and the Carr Brook with an area of Public Open Space (POS) surrounding the Sustainable Drainage Systems (SuDS) on phase 2. Phase 1 includes the provision of a Locally Equipped Area for Play (LEAP) as required by the Section 106 Agreement.

## **Applicant's supporting information**

The Design Statement sets out the background to the proposed site layout, acknowledging the difference in levels between Station Road and the Carr Brook. The sensitivity of the site drainage is noted and a sustainable drainage strategy is proposed to ensure no additional surface water run-off from the site and to protect existing residents. The existing drainage channels are to be retained with 'no build zones' implemented along their length. The development as a whole is proposed with a single access point from Station Road. The existing hedgerows to the sites boundary with Station Road and to the south west (to the existing Davidsons site) are proposed to be retained and enhanced to provide screening and a wildlife corridor. The overall design of the dwellings is considered to reflect the varied character of Melbourne.

## **Planning History**

- 9/2014/0287      Outline application (all matters except for access to be reserved) for the residential development of 22 dwellings with associated open space and highways works. Approved 13 March 2015. (Phase 1)
- 9/2015/0119      The erection of 24 dwellings with associated infrastructure and landscaped open space. Outline permission with all matters except for access reserved. Approved 23 May 2016. (Phase 2)

## **Responses to Consultations**

Due to the intrinsically linked nature of the applications the consultation responses for both applications have been summarised below.

The Highway Authority does not consider that the impact of the development would be such that would justify refusal, and therefore subject to conditions there are no objections from a highway safety perspective. It needs to be noted that the original outline permissions considered access as a reserved matter and attached the conditions considered relevant to access at the time. It is therefore not proposed to repeat those conditions.

The Strategic Housing Manager is content with the scheme and the proposed affordable housing across the two phases of development, subject to revisions to the Section 106 to secure the affordable housing levels and mix of dwelling types.

Derbyshire Wildlife Trust has no objection to the submission, and note that the submitted Ecological Design Strategy and Management Plan would be sufficient to discharge conditions 8 and 9 of the outline permission.

The Environment Agency has no objections.

The Lead Local Flood Authority (LLFA) has been involved in the site for some time in acknowledgement of the current and historic flooding problems in this area of Melbourne. As the drainage conditions attached to the outline permission will need to be discharged with a detailed drainage scheme, the LLFA does not intend to comment but note that their preference would be for the gradient of the detention basins to be 1 in 4 rather than the 1 in 3 detailed in the submitted information.

East Midlands Airport has no objection to the proposal but recommend a condition requiring the submission of a 'Bird Hazard Management Plan', and an informative advising that the use of cranes will require a permit from EMA.

## **Responses to Publicity**

Melbourne Parish Council has no objection.

Melbourne Civic Society made the following comments on the original submission;

- i) *There is little to inspire here and the layout is pedestrian. The house designs aren't imaginative, show no flair, and won't win any design awards.*
- ii) *We do insist, however, that the developer uses a variety of brick and tile colours, and NOT use the same bricks throughout as they have at their recent Church Street and Ashby Road developments.*
- iii) *The adjacent Davidsons development has a path along the side of Car Brook, pleasant but rather constrained. There is now the opportunity to continue this path into and through these new developments. It would need access through the separating field hedge and a bridge across the small stream to link Davidsons to new development then a path along Car Brook, sweeping round to a pedestrian exit onto Station Road. As most of this will be a grassed area it doesn't even need to be a made up path. SDDC has adopted the public areas of the Davidsons estate, so this could be arranged by the developer and SDDC. It seems to us that this would offer another amenity to Melbourne, and not doing it would be a missed opportunity.*
- iv) *With the overall flooding problems in Melbourne permeable drives and hard-standing should be adopted as a standard for all new development in Melbourne.*

*Following the receipt of amended plans the Civic Society comment on their like for the addition of the footpath though the two phases.*

Councillor Harrison has commented that he is pleased to see the SuDS concerns have been addressed but would like to see these areas suitably fenced particularly noting the children's play area.

6 letters have been received from 4 individuals responding to the proposals, raising the following concerns/points:

- n) Support the development but would like to see the highways S106 contribution used to improve the school crossing on Station Road and slow down traffic;
- o) Landscaping to the existing Davidsons Site should be enhanced to ensure existing properties amenity is protected / enhanced;
- p) Impacts on amenity though overbearing, loss of light and overlooking;
- q) Concerns about the site drainage and the existing problems with flash flooding on the site.
- r) The Carr Brook should be cleared, with the ditch to the east dredged and fenced appropriately;
- s) There should be no access route back to Station Road from the north of the site.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development) S4 (Housing Strategy); H1 (Settlement Hierarchy); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage)

Infrastructure); BNE1 (Design Excellence); INF1 (Infrastructure and Developer Contributions); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF9 (Open Space, Sport and Recreation); INF6 (Community Facilities)

- 2017 Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows); SDT1 (Settlement Boundaries and Development); H23 (Non-Strategic Housing Allocations)

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD

### **Planning Considerations**

The principle of development on the site was established through the granting of the 2014 and 2015 outline permissions. The parameters for the development of the site being set by these decisions and their associated Section 106 Agreements, including the provision and delivery of affordable housing, public open space (POS) ecology and consideration of highway safety. Consideration of these two applications therefore needs to be based upon the reserved matters applied for; layout, appearance, scale, and landscaping.

In addition, following the approval of the outline permissions the site benefits from an allocation for development under policy H23D of the Local Plan Part 2 (LP2), the policy details the following site specifics:

- Around 46 dwellings;
- Pedestrian access to be made to the adjacent Sweet Leys Estate;
- Enhance the existing hedgerow boundaries except for access requirements;
- A landscape buffer will be implemented and enhanced to the northern and eastern boundaries of the site; and
- No development within the part of the site subject to flood risk from the Carr Brook.

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

- Layout and landscaping;
- Appearance and scale; and
- Other matters



## Planning Assessment

### Layout and landscaping

The layout of the site (for both phases), has been the subject of detailed negotiations with the applicant and the Council's Design Excellence Officer and has resulted in the submitted schemes. The amendments have primarily related to the layout of the dwellings and their interaction with key spaces throughout the site.

Vehicular access in to the site from Station Road was considered in detail at the time of the approval of the outline applications and its position to the north-west of the site was fixed at that stage. This single access point serves the whole development, which follows the alignment of the access point before curving to the east and forking off over a brook to serve phase 2. The alignment of the proposed dwellings generally follow the access road, with three private cul-de-sacs proposed within the development. POS is proposed along the southern boundary of the site adjacent to the Carr Brook along with the proposed SuDS features. The POS and SuDS features are located within this area of the site due to its proximity to the Carr Brook and the increased risk of flooding in this area, this enables the development to comply with the requirements of H23D.

In accordance with the requirements of policy H23D the existing hedgerow to Station Road is to be retained save for the approved access point, with the proposed dwellings set behind the hedgerow. The layout fronting Station Road provides for a key dwelling to announce the site access in a similar vein to the adjacent Sweet Leys Way estate in mind, with the other dwellings fronting Station Road proposed with hipped roofs to reduce their impact. The built form then loosens to the north east along Station Road and along the eastern boundary of the site as you leave the village with dwellings set well-back behind the hedge (which is set at a higher level than site itself) helping the development to integrate appropriately with the countryside beyond the site and also provide the opportunity for enhancing these boundaries as a landscape buffer required by the policy, which would be subject to a suitably worded landscaping condition.

The dwellings are sited in order to provide an outward facing development, addressing the internal access roads and the areas of proposed POS, such that the layout follows good urban design principles of providing active frontages (including providing dual fronted dwellings rather than blank elevations fronting the street). Generally the development is considered to provide a well-spaced and laid out development with space about dwellings to provide an informal layout with pockets of landscaping to the dwelling frontages and in incidental spaces in-between dwellings and the highway including where boundary walls are drawn back from the back of the footway.

This layout provides for a mix of dwelling types and tenures reflecting the needs of the District with those dwellings fronting the main access road proposed with parking in-between them to break up the built frontages and also provide for dwellings rather than cars at prominent areas of the site. A mix of parking solutions assists in reducing the dominance of parked vehicles to private frontages, with a minimum of 2 spaces per dwelling provided for the 2 – 3 bed units and three spaces provided for

each of the 4 and 5 bed dwellings proposed. In addition, where parking spaces are proposed adjacent to one another these are separated by a low hedgerow with an extra 0.5m width where the spaces abut a hard boundary (such as the dwellings themselves). The County Highway Authority raises no objections to the layout which accords with the design guidance, and suitable provision for bin collection is made.

The site contains two ditches (drainage channels) which run north-west to south-east from Station Road down to the Carr Brook, which restrict the developable area of the site and require the provision of easements either side of them create 'green fingers' through the development which provide areas of amenity and biodiversity value through the site and would form part of the Landscape and Ecological Management Plan required by the outline permission. These areas also provide a buffer to the existing Sweet Leys Way development.

A key driver in the layout of the site and the proposed pedestrian links is to ensure that this development integrates with the existing community and that the drainage channels do not inhibit pedestrian movement not only between the two phases but also between the site and the adjacent Sweet Leys Way. This requirement is enshrined within the requirements of the policy which allocates the site for residential development. The access road though the site crosses the drainage channel to provide a vehicular link and pedestrian bridges are proposed to link the two phases of the development within the POS to the south, and also between phase 1 and Sweet Leys Way. The provision of a bridge link between phases 1 and 2 is achievable through these applications with a linked condition to ensure the delivery of the bridge. The provision of such a link is supported by Melbourne Civic Society. However, the provision and delivery of a bridge between phase 1 and Sweet Leys Way requires the provision of infrastructure on land outside the application site, albeit that the POS within the Sweet Leys Way estate has now been adopted by the Council. To this end it is proposed that the delivery of the bridge is linked to the development through the proposed Deed of Variation to the original Section 106 Agreement (required for affordable housing reasons discussed below) and any recommendation on the phase 1 scheme should be subject to the completion of such a Deed.

The quantum of POS for each phase and the provision of a LEAP within phase 1 is a requirement of the outline permission. The design ethos for the POS and play area would be to provide an informal area with natural play features reflecting the sites location close to the countryside beyond, helping to preserve the 'green' feel of this part of the site.

The site layout due to its separation from the development on Sweet Leys Way, partly as required by the drainage ditch easement has ensured that the impact of the development on existing residents is minimised. The closest direct overlooking potential between the proposed and existing dwellings is a minimum of 29m, some 8m in excess of the Councils adopted standards. Any perceived overlooking or overshadowing is further reduced by existing intervening vegetation along the existing drainage ditch and as such the proposed development is not considered to result in significant overlooking or overshadowing.

Overall the proposed layout and landscaping is considered to be an appropriate response to developing the site taking into account the existing natural features of the site and the surrounding area, and ensuring an attractive development is provided (subject to detailed conditions). The proposal in terms of its layout is therefore considered to comply with the requirements of policies BNE1, BNE3, BNE4, BNE7 and H23D.

### Appearance and scale

This area of Melbourne, outside the Conservation Area, is characterised by a mix of dwelling types, sizes and ages resulting in there being no distinctive characteristics of dwellings to directly guide the appearance or scale of the proposed dwellings. The development itself would be visible from Station Road as you leave the village, but is somewhat screened due to it being set lower than Station Road itself and the existing hedgerow along Station Road which is to be retained in a similar vein to the adjacent Sweet Leys Way development.

The house types proposed reflect those characteristic of the more traditional areas of Melbourne (including within the Conservation Area) and include a variety of ridge and eaves heights, overall designs and mass. The house types themselves are simple in their traditional detailing (reflective of Melbourne itself) with accommodation provided within the roof, eyebrow dormer detailing, simple traditional canopies, and mix of cill and lintel detailing. The mix of house styles and scales helps to create a locally distinctive development which responds to local character whilst providing its own identity. Feature properties set in prominent locations provide good reference points in the development with additional windows proposed in side elevations where these front the street to provide good natural surveillance. Whilst the site is set lower than Station Road, the site is not flat and in order to ensure that development platforms are considered appropriately a levels condition is considered necessary and is recommended accordingly. Generally the appearance and scale of the development is considered to be visually attractive with a locally inspired character and as such complies with the requirements of policy BNE1 and the guidance contained within the South Derbyshire Design SPD.

### Other matters

Affordable housing: the phase 1 Section 106 Agreement specified the precise mix of affordable homes required on the site, whereas the affordable housing requirement on phase 2 is required by condition. The phase 1 Section 106 Agreement required the delivery of (amongst other affordable solutions) a 1 bedroom wheelchair accessible bungalow. However, due to the size of phase 1 compared to phase 2 the applicants have requested that this requirement be removed and a suitable dwelling provided on phase 2. Following discussions with the Strategic Housing Manager, this is deemed to be acceptable but subject to the requirement that the 1 bedroom bungalow originally required is replaced with a 2 bed bungalow with a ground floor accessible bedroom in order to meet the needs of families with special care requirements. Therefore the recommendation for phase 1 needs to be subject to the completion of a Deed of Variation to vary this element of the Original Section 106 Agreement.

Flooding: whilst it is acknowledged there are existing drainage problems in Melbourne particularly in this location, the specific requirements of the drainage scheme (both surface and foul) will need to be provided to discharge the relevant outline conditions. It is known that the applicants have engaged with the LLFA and Severn Trent Water in order to develop the drainage strategy for the site prior to designing this scheme. In the interim the existing drainage ditches within the site and the Carr Brook itself have been cleared of debris by the applicant in order to alleviate the existing drainage issues in this area as much as possible. The SuDS features are located close to the play area and as such it is important to ensure that the SuDS are appropriately safe and fenced off and this matter will need to be considered through the discharge of the relevant outline condition for boundary treatments. The SuDS ponds are positioned adjacent to the Carr Brook in order to function correctly by retaining surface water from the site before it is discharged at an appropriate rate in to the Brook.

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

### **Recommendation**

- A.** That the Committee delegates authority to the Planning Services Manager to conclude the Deed of Variation to the existing Section 106 Agreement in pursuit of the provisions as set out in the planning assessment above;
- B.** Subject to A, **GRANT** permission subject to the following conditions:
1. The development hereby permitted shall be carried out in accordance with the schedule of drawings for Phase 1 dated the 4 May 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. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).  
  
Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging that these details need to be approved prior to the commencement of initial ground works.
  3. The applicant shall submit a Bird Management Plan (BMP) prior to any development commencing on site detailing the construction and operational phases, which will be approved by the Local Planning Authority through consultation with East Midlands Airport. The Bird Management Plan is to be implemented as approved.

Reason: To reduce the attractiveness of potential feeding, nesting, breeding and roosting opportunities for hazardous bird species in the vicinity of the Airport in order to avoid the interception of bird and aircraft flight lines in the interest of aviation safety.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no further boundary treatments shall be erected forward of the walls and or fences detailed on the approved drawing or as approved under condition 7 of the outline permission for the site.

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

5. Prior to the first use of the development a scheme of landscaping (both soft and hard including kerb heights for the block paved areas which shall be a maximum of 25mm) shall be submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

6. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

7. Notwithstanding the submitted details, prior to their provision, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the windows and doors including the reveal, material and finish;
- (b) the eaves, verges, cills and lintols;
- (c) rainwater goods including their method of fixing;
- (d) any retaining structures; and
- (e) canopies.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

8. Prior to the first occupation of the development precise details of the pedestrian link between phased 1 and 2 (applications 9/2017/0524 and 9/2017/0525) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance

with the approved details prior to the first occupation of the development or in accordance with a previously agreed.

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

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

Reason: In the interests of highway safety.

Informatives:

1. The applicant is advised to note the and act upon as necessary the requirements of the outline conditions and Section 106 Agreement, which relate relating to matters including the delivery of affordable housing, open space, drainage, contamination, highway works and ecology.
2. Cranes, whilst they are temporary, can be a hazard to air safety. The developer or crane operator must therefore contact East Midlands Airport using the details provided below, at least 21 days in advance of intending to erect a crane or other tall construction equipment on the site. This is to obtain a Tall Equipment Permit and to ascertain if any operating restrictions would be required. Any operating restrictions that are subsequently imposed by East Midlands Airport must be fully complied with.
3. 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.
4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
  - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
  - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a



small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

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

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

**Item**            **1.8**

**Ref. No.**        **9/2017/0525/RSD**

**Applicant:**  
**Mr J Ottewell**  
**c/o Agent**

**Agent:**  
**Tim Farley**  
**Copesticks**  
**39 Tudor Hill**  
**Sutton Coldfield**  
**Birmingham**  
**B73 6BE**

**Proposal:**    **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE & LANDSCAPING FOR THE ERECTION OF 23 DWELLINGS UNDER PLANNING PERMISSION REF: 9/2015/0119 ON LAND AT SK3925 1974 EAST OF STATION ROAD MELBOURNE DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **19/05/2017**

This reserved matters application is for phase 2 of the development on Station Road, Melbourne. The merits of the case are examined in the companion application for reserved matters application for phase 1 of the development under 9/2017/0524 above.

### **Recommendation**

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

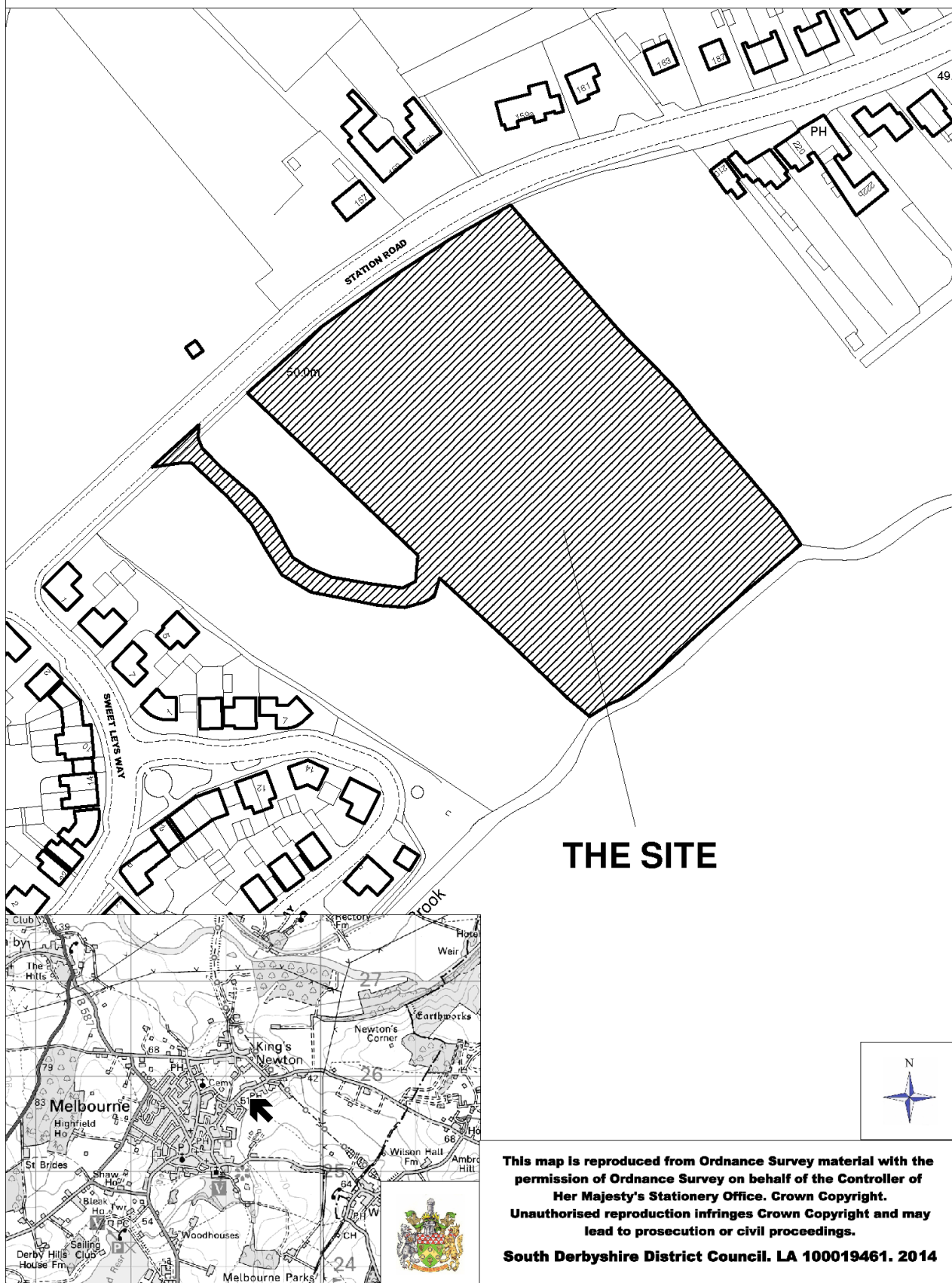
1. The development hereby permitted shall be carried out in accordance with the schedule of drawings for Phase 2 dated the 4 May 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 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. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally, acknowledging that these details need to be approved prior to the commencement of initial ground works.

**9/2017/0525 - Land at SK3925 1974, East of Station Road, Melbourne, Derby DE73 8BQ**



3. The applicant shall submit a Bird Management Plan (BMP) prior to any development commencing on site detailing the construction and operational phases, which will be approved by the Local Planning Authority through consultation with East Midlands Airport. The Bird Management Plan is to be implemented as approved.

Reason: To reduce the attractiveness of potential feeding, nesting, breeding and roosting opportunities for hazardous bird species in the vicinity of the Airport in order to avoid the interception of bird and aircraft flight lines in the interest of aviation safety.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no further boundary treatments shall erected forward the walls and or fences detailed on the approved drawing or as approved under condition 7 of the outline permission for the site.

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

5. Prior to the first use of the development a scheme of landscaping (both soft and hard including kerb heights for the block paved areas which shall be a maximum of 25mm) shall be submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

6. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

7. Notwithstanding the submitted details, prior to their provision, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the windows and doors including the reveal, material and finish;
- (b) the eaves, verges, cills and lintels;
- (c) rainwater goods including their method of fixing;
- (d) any retaining structures; and
- (e) canopies.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

8. Prior to the first occupation of the development precise details of the pedestrian link between phased 1 and 2 (applications 9/2017/0524 and 9/2017/0525) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the development or in accordance with a previously agreed.

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

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

Reason: In the interests of highway safety.

Informatives:

1. The applicant is advised to note the and act upon as necessary the requirements of the outline conditions and Section 106 Agreement, which relate relating to matters including the delivery of affordable housing, open space, drainage, contamination, highway works and ecology.
2. Cranes, whilst they are temporary, can be a hazard to air safety. The developer or crane operator must therefore contact East Midlands Airport using the details provided below, at least 21 days in advance of intending to erect a crane or other tall construction equipment on the site. This is to obtain a Tall Equipment Permit and to ascertain if any operating restrictions would be required. Any operating restrictions that are subsequently imposed by East Midlands Airport must be fully complied with.
3. 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.

**Item**            **1.9**

**Ref. No.**        **9/2017/0887/RSD**

**Applicant:**  
**Natalie Gotobed**  
**Lioncourt House**  
**3 Apex Park**  
**Wainwright Road**  
**Warndon**  
**WR49FN**

**Agent:**  
**Mr David Somerville**  
**David Somerville Design Ltd**  
**Glebe Cottage**  
**Vicarage Lane**  
**East Haddon**  
**Northampton**  
**NN6 8DA**

**Proposal:**    **APPROVAL OF RESERVED MATTERS (LAYOUT, SCALE, APPEARANCE AND LANDSCAPING) FOR THE ERECTION OF 71 DWELLINGS PURSUANT TO PLANNING PERMISSION REF: 9/2014/0948 ON LAND AT SK2520 3411 ROSLISTON ROAD SOUTH DRAKELOW SWADLINCOTE**

**Ward:**        **Linton**

**Valid Date**   **11/09/2017**

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

The item is presented to Committee as the application is for a major development and more than two letters of representation have been received.

#### **Site Description**

The application site extends to 2.89ha, with the site currently in agricultural use with a small element of residential garden also apparent. The site is to the east of an existing ribbon of residential development (Rosliston Road South) which extends from Burton upon Trent. The existing Leicester railway line forms the eastern boundary of the site beyond which lie agricultural fields. The southern boundary is formed by an existing hedgerow with a number of trees within and agricultural land beyond. A number of agricultural buildings exist to the centre of the site which are accessed from an existing track (which also serves No 39 Rosliston Road south). The site slopes gradually down towards Rosliston Road South.

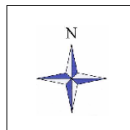
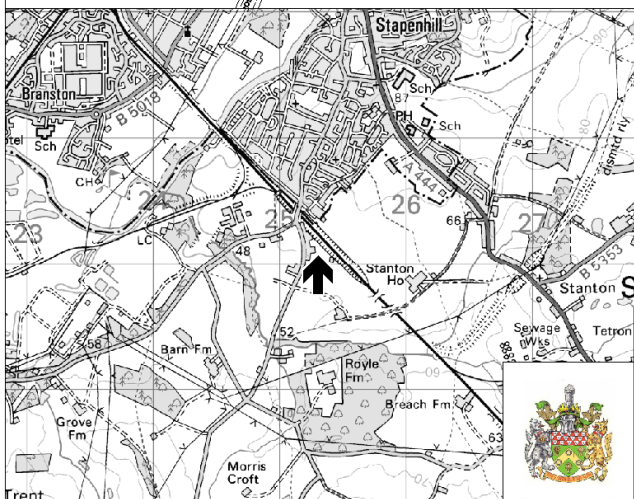
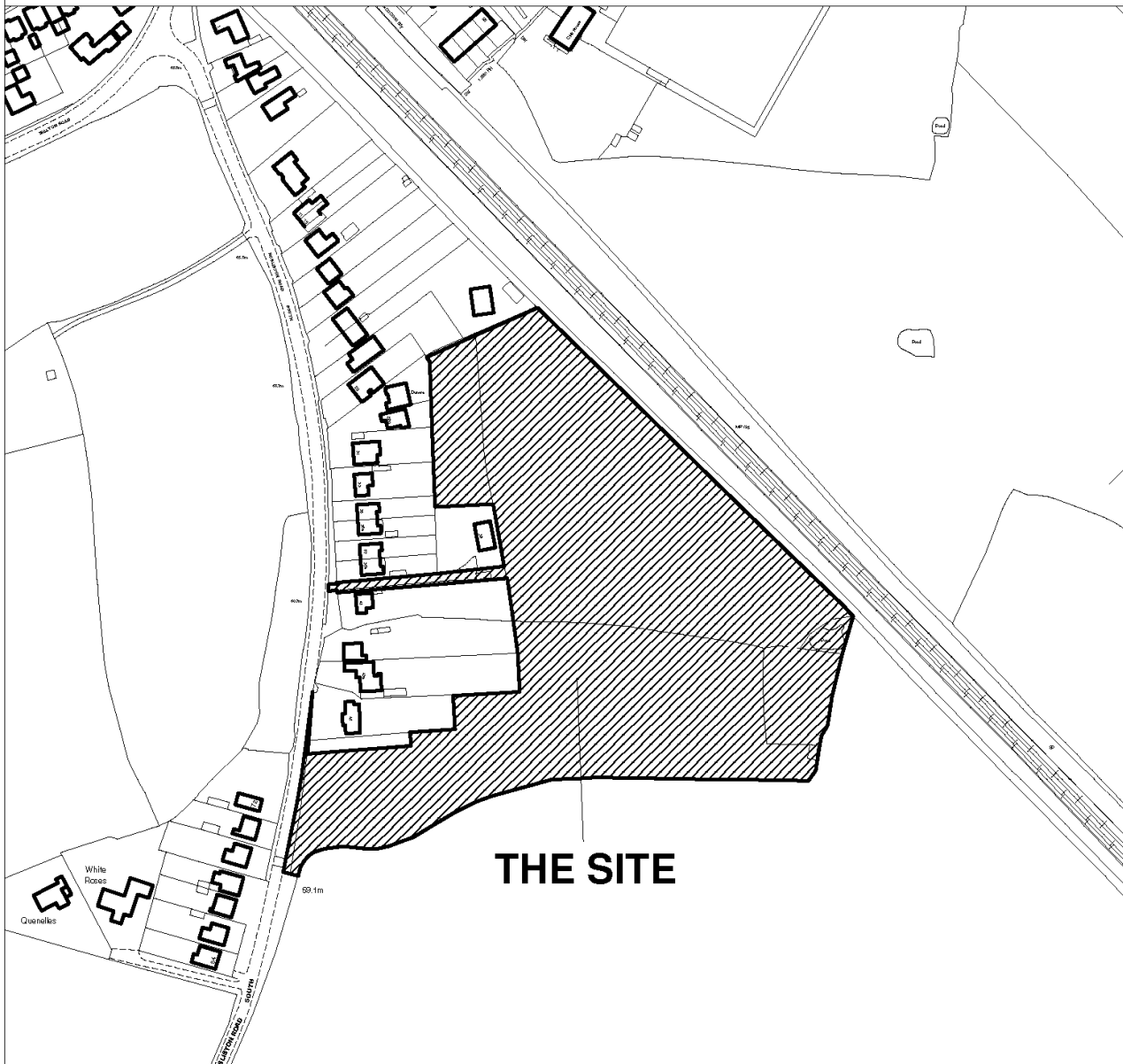
The site is the subject of an as yet unconfirmed TPO (TPO490).

#### **Proposal**

Following approval of the outline permission allowed at appeal (which included access), this application is for the approval of reserved matters for the layout, scale, appearance and landscaping for 71 dwellings. The original outline approved up to 75



9/2017/0887 - Land at SK2520 3411 Rosliston Road South, Drakelow,  
Swadlincote DE15 9UD



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**South Derbyshire District Council. LA 100019461. 2014**

dwellings on the site. The application proposes a mix of dwelling sizes and tenure. In accordance with the requirements of the outline Section 106 Agreement 30% of the dwellings are proposed as affordable homes (21 dwellings).

As approved at the outline stage a single vehicular access to the south of 45 Rosliston Road South would serve the development, with a footpath to its northern side. The existing access that serves No 39 in-between 37a and 41 is to be restricted to footpath / cycle access in to the site with emergency vehicle access achievable. Areas of open space and play are proposed to the southern boundary of the site and to the eastern corner, with a footpath link to the play area proposed through the site along the line of a retained hedgerow.

The main access road into the site turns north and then runs parallel with the railway line. Shared paved spaces are proposed along the access road in order to promote pedestrian primacy within the development. A minimum of 2 parking spaces are proposed per dwelling. A drainage basin is proposed to the south of the site access, with trees and hedgerows retained to the sites southern boundary.

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

The Design & Access Statement sets out the context for the site, its constraints and outlines the design solution for the site. The statement sets three key objectives;

- To create a distinctive development, both in built form and public realm, of a substance and quality which will enhance, and integrate within the existing development on the edge of Drakelow;
- Achieve a development layout that promotes strong linkages to the existing development in the locality;
- Establish a suitable transition between the proposed development and the existing residential area.

The statement then goes on to assess the character of the local area, develop a movement strategy for pedestrians and vehicles throughout the site, identify where natural surveillance and dual fronted dwellings are required with landmark dwellings proposed at key points throughout the site. The landscape strategy identifies links between the proposed Public Open Space (POS), the retained landscaping and existing community. Height and massing throughout the site is primarily two-storey, with a small number dwelling proposed with dormers to provide three stories of accommodation.

An Arboricultural Method Statement was submitted in support of the scheme, which considers and updates the supporting tree survey submitted with the outline application. The statement re-assesses the trees and makes recommendations for works to the trees and their protection during the development. The main contention relates to the proposed felling of the existing Ash tree to the centre of the site which the report (and subsequent objection to TPO 490) considered is necessary due to it being diseased.

The Noise Addendum Report considers the noise environment of the site and its impact on the development. The main areas of potential impact are as a result of the

close proximity of the railway line to the north-east. The results of the assessment have indicated that no specific noise mitigation measures will be required for the proposed development. It is noted that whilst this assessment has been submitted in support of this reserved matters application this does not obviate the need for the relevant noise condition on the outline permission to be discharged.

### **Planning History**

- |             |   |
|-------------|---|
| 9/2001/0504 | Retention of field shelter. Approved 19/07/2001.  |
| 9/2003/0900 | Outline for one dwelling and garage. Refused 09/09/2003.  |
| 9/2005/1173 | Loft conversion and dormer windows. Approved 22/11/2005.  |
| 9/2006/0122 | Erection of agricultural building for use as a machine store, animal treatment area, and animal shelter for pigs and sheep. Approved 04/04/2006.  |
| 9/2014/0948 | Outline application (all matters except for access to be reserved) for the residential development of up to 75 dwellings with associated public open space and sustainable drainage. Refused and subsequently allowed at appeal 24 August 2015. |

### **Responses to Consultations**

The Council's Tree Officer having considered the submitted Arboricultural Method Statement and the representation made on TPO 490 considers that the existing mature Ash tree within the centre of the site that was originally proposed to be included within the TPO can be removed. The tree is infected with *Inonotus Hispidus*, which has the effect of almost always resulting in catastrophic failure. Without major crown reductions the tree is likely to fail within 5-10 years, the major crown reduction required would result in a significantly pollarded tree and result in a significant reduction in its amenity value. Given the current proposals it is recommended to allow removal of the tree and its replacement with a suitable specimen within the public open space.

The Strategic Housing Manager is content with the revised layout, noting that the development proposes 21 dwellings.

The Highway Authority has recommended a number of conditions on the proposed development. However, it needs to be noted that the original outline permissions considered access as a reserved matter and attached the conditions the Inspector considered relevant to access at the time. It is therefore not proposed to repeat those conditions.

Derbyshire Police initially raised concerns about the emergency access, and overlooking of the POS. Following the submission of revised plans they consider the revisions address all of the practically achievable points raised previously.

The Lead Local Flood Authority has no comments.

The National Forest Company comments on the requirement for the POS to be provided with woodland planting in order to be considered as part of the woodland planting required by the S106. Therefore more areas of woodland planting are required (unless financial contributions as allowed for within the Section 106 Agreement are provided) and the landscaping scheme should include hedge planting to the eastern boundary of the site.

Derbyshire Wildlife Trust are content that following a detailed survey of the site that there is no evidence of badgers currently using the site however, a method statement for the construction period should be conditioned to ensure surveys are undertaken before work commences. It should be noted that consideration of the protected species on the site were considered as part of the outline appeal, and these matters can adequately be dealt with by the Nature Conservation Management Plan required by condition 14 of the outline permission. Concern was raised in respect of the retained hedgerows being located within private gardens; however, the revised layout of the scheme has addressed these comments by providing for a new footpath link through the site and the hedgerow now being located within the POS.

East Staffordshire Borough Council has no objections to the proposal.

Drakelow Parish Council comments on the need to ensure the development takes account of the local vernacular and screening of the site to existing dwellings.

## **Responses to Publicity**

4 letters have been received commenting on the proposals, raising the following concerns/points:

- a) The land is the subject of a covenant that restricts the building of any more than 2 dwellings;
- b) 75 dwellings would totally destroy the character of the hamlet;
- c) The need for new housing in the area will be addressed by the 2,600 new homes at Drakelow Park;
- d) Concern at healthcare capacity;
- e) Impact on privacy though overlooking;
- f) A substantial screen should be provided to the existing dwellings;
- g) Overshadowing of existing bungalows;
- h) This application as in 2014 should be refused;
- i) Concern regarding the height of boundary treatments due to level changes;
- j) Where are the three storey dwellings on site?

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); H1 (Settlement Hierarchy); SD1 (Amenity and Environmental Quality); SD2

(Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); INF1 (Infrastructure and Developer Contributions); INF8 (The National Forest); INF9 (Open Space, Sport and Recreation); INF6 (Community Facilities); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness).

- 2017 Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows); SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

The principle of developing the site was established through the granting of outline permission on the 2014 application allowed at appeal. The appeal decision and accompanying Section 106 Agreement approved and controlled a number of matters for the site's development. These included an assessment of highway safety and the approval of the site access from Rosliston Road, drainage principles, noise impacts and nature conservation management. The Section 106 requires the delivery of public open space (including a Locally Equipped Area for Play), national forest planting (or a financial contribution), the provision of affordable housing, education contributions, drainage provisions, and Travel Plan requirements. Consideration of this application therefore needs to be restricted to the requirements of the reserved matters applied i.e. layout, appearance, scale, and landscaping.

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

- Layout and landscaping;
- Appearance and scale; and
- Other matters

## **Planning Assessment**

### Layout and landscaping

The proposed layout has been the subject of a number of iterations since its submission, in the interests of ensuring that the development provides a well-considered layout taking account of the existing natural features of the site, the site's location on the edge of the open countryside, and principles of good urban design.

The point of vehicular access in to the site from Rosliston Road South, is fixed following the outline approval. The internal access road follows the southern boundary of the site with Sustainable Drainage Systems (SuDS) and public open

space (POS) proposed as a buffer between the access road and countryside beyond. The access road then turns north and curves around the site in a north westerly direction. An area of POS including an area of play is proposed to the east of the access road to the south-eastern corner of the site.

The housing layout provides for an outward facing development throughout the site, with dwellings proposed fronting the access road and POS with rear gardens proposed backing on to existing dwellings to the west and the railway line to the north-eastern boundary. The dwellings are orientated to provide overlooking of the POS, with dual fronted dwellings where they turn corners or side on to public footpaths. Where prominent side gardens are exposed to the public or semi-public realm, a 1.8 m high brick wall is proposed set back along the line of the existing dwelling to provide good visibility throughout the development and to provide areas for landscaping.

A mix of parking solutions are provided throughout the site, either in-front or in-between the proposed dwellings. Parking in-between the dwellings particularly along the long run of dwellings backing on to the railway line helps to provide breaks in built form and also ensures that a minimum of 2 parking spaces are provided per dwelling of an appropriate size and width dependent on their location (where parking spaces abut a dwelling an additional 0.5m is recommended to ensure the space is useable). The development is proposed with areas of block paving for road surfacing, in order to provide for areas of pedestrian priority creating a calmed and more attractive streetscape. Where this is proposed it is considered appropriate for the provision of lower 25mm kerb lines. The County Highway Authority raises no objections to the layout which appears to accord with their design guidance, and suitable provision for bin collection is made.

The housing mix proposed provides for a balance of housing in terms of both mix and tenure with the affordable provision (in number) satisfying the requirements of the outline permission for the provision of 30% affordable homes of a mix identified to provide primarily 2 and 3 bed dwellings, reflecting the need across the District for smaller units.

The provision of POS and landscaping along the southern boundary and south-eastern part of the site including reinstating a hedgerow along this boundary provides for a green buffer to the development and helps to integrate the site with the open countryside beyond. The scheme sees the retention of a number of trees along this southern boundary of the site and within the proposed area of POS which are currently the subject of a draft TPO (TPO490).

The existing vehicular access to No 39 would be closed to vehicular traffic and provided as a footpath / cycleway, which would link the site to the wider urban area to the north. The desire to retain an existing hedge to the centre of the site as a natural feature has provided the opportunity to include this feature within the on-site POS and also to provide a link between the created footpath / cycle way and the sites formal POS and children's play area allowing for a direct pedestrian link though the site. An existing Ash tree within the hedgerow has unfortunately fallen foul of disease and is proposed for removal, with a replacement specimen required which can be secured though a suitably detailed landscaping scheme as such there is no



objection to its removal. The submitted plans detail indicative landscaping throughout the site which will provide for a well landscaped site (subject to the submission and agreement of a detailed scheme). It needs to be noted that the Section 106 Agreement requires the provision of a minimum POS area of 0.47 ha, and 0.58 ha of National Forest tree planting (which can be included within the POS). The current scheme provides for 0.52 of POS and as such will result in a requirement for part of the National Forest planting requirement to be secured through a financial contribution towards National Forest planting off-site, although this will be confirmed once a detailed landscaping scheme has been submitted which would need to be developed in conjunction with the Nature Conservation Management Plan required by the outline permission.

The proposed SuDS pond is located to the south of the site access adjacent to Rosliston Road South, positioned at the lowest point of the site in order to function correctly. The full detail of the SuDS pond and other drainage infrastructure (noting the proposal for a foul water pumping station) needs to be addressed through the existing outline conditions.

The site layout has been developed and amended in order to ensure that the impact of the development on existing residents is minimised. Where the proposed dwellings are located in close proximity to existing residents the separation standards outlined in the South Derbyshire Design SPD are achieved and as such the development is not considered to result in significant overlooking or overshadowing. The finer detail of the boundary treatments including those shared rear boundaries will need to be agreed through consideration of the relevant outline condition.

Overall the proposed layout and landscaping is considered to be an appropriate response to developing the site taking into account the existing natural features of the site and the surrounding area, and ensuring an attractive development is provided (subject to detailed conditions). The proposal in terms of its layout and landscaping is therefore considered to comply with the requirements of policies BNE1, BNE3, BNE4 and BNE7.

### Appearance and scale

The house types proposed throughout the development have again been the subject of detailed scrutiny to ensure that the development reflects the traditional character of the area and are locally distinctive. Dual fronted dwellings proposed at junctions within the site such that good natural surveillance is provided and the main visible elevations are proposed with interest and positive design elements.

The individual designs of the dwellings are reflective of a generally traditional character of the area with splayed lintel detailing, canted cills and stub integrated window cills. Bay window features have been suitably detailed and fenestration sizes and positions improved to ensure an attractive built form ensues with strong built frontages and appropriate dwelling types reflecting and improving the local vernacular to give the sites its own identity whilst respecting the character of the local area. In terms of scale the dwellings are primarily two storey including all dwellings which share a common boundary with existing dwellings, those dwellings

proposed with three storeys of living accommodation are generally located along the eastern boundary of the site adjacent to the railway line. Whilst the site slopes gently a levels condition was imposed on the outline permission, to ensure that the development is appropriate for its context and dwelling do not dominate the existing adjacent development.

Detailed plans have been provided for the proposed canopies which are appropriate but the finer details of the eaves and verges can be addressed by condition. Generally the appearance and scale of the development is considered to be visually attractive with a locally inspired character and as such complies with the requirements of policy BNE1 and the guidance contained within the Design Guide SPD.

### Other matters

The conditions imposed on the outline permission, and requirements of the Section 106 Agreement are comprehensive and include matters including the delivery of affordable housing and POS, drainage, floor levels, contamination, materials highway works and ecology, and as such the conditions below do not repeat any matters already secured.

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** approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the Drawing Number Schedule (18.05.18), with the exception of the Landscape Plans and Drainage Plan; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no further boundary treatments shall erected forward the walls and/or fences detailed on the approved drawings or those to be approved under condition 12 of the outline permission.

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

3. Prior to the first use of the development a scheme of landscaping (both soft and hard including kerb heights for the block paved areas which shall be a

maximum of 25mm) shall be submitted to and approved by the Local Planning Authority, the scheme shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

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

4. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

5. Notwithstanding the submitted details, prior to their provision, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the windows and doors including the reveal, material and finish;
- (b) the eaves and verges;
- (c) rainwater goods including their method of fixing; and
- (d) any retaining structures.

These elements shall be provided in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

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

Reason: In the interests of highway safety.

#### Informatives:

1. The applicant is advised to note the and act upon as necessary the requirements of the outline conditions and Section 106 Agreement, which relate relating to matters including the delivery of affordable housing, open space, drainage, floor levels, contamination, highway works and ecology.
2. 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.

**Item**            **1.10**

**Ref. No.**        **9/2017/1401/NGF**

**Applicant:**  
**Mr V Kotecha**  
**First Fence Ltd**  
**Kiln Way**  
**Woodville**  
**Swadlincote**  
**DE11 8EA**

**Agent:**  
**Mrs Aida Mcmanus**  
**Planning Together Group**  
**17 Derwent Road**  
**Stapenhill**  
**Burton Upon Trent**  
**Staffordshire**  
**DE15 9FR**

**Proposal:**    **CONTINUED USE OF THE SITE IN CONNECTION WITH B2 (INDUSTRIAL) AND B8 (STORAGE) USE ALONG WITH RETENTION OF PERIMETER PALISADE FENCING AND RE-PAINTING OF IT, RETAINING WALL, HARDSTANDING AND INSTALLATION OF DROPPED KERB TO SWADLINCOTE ROAD AT FIRST FENCE LTD KILN WAY WOODVILLE SWADLINCOTE**

**Ward:**         **Woodville**

**Valid Date**    **22/12/2017**

**Reason for committee determination**

The item is reported to Committee at the request of Councillor Taylor as local concern that has been expressed about an issue.

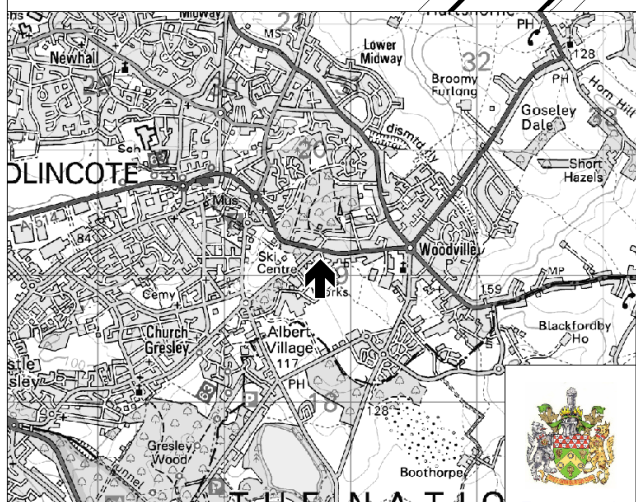
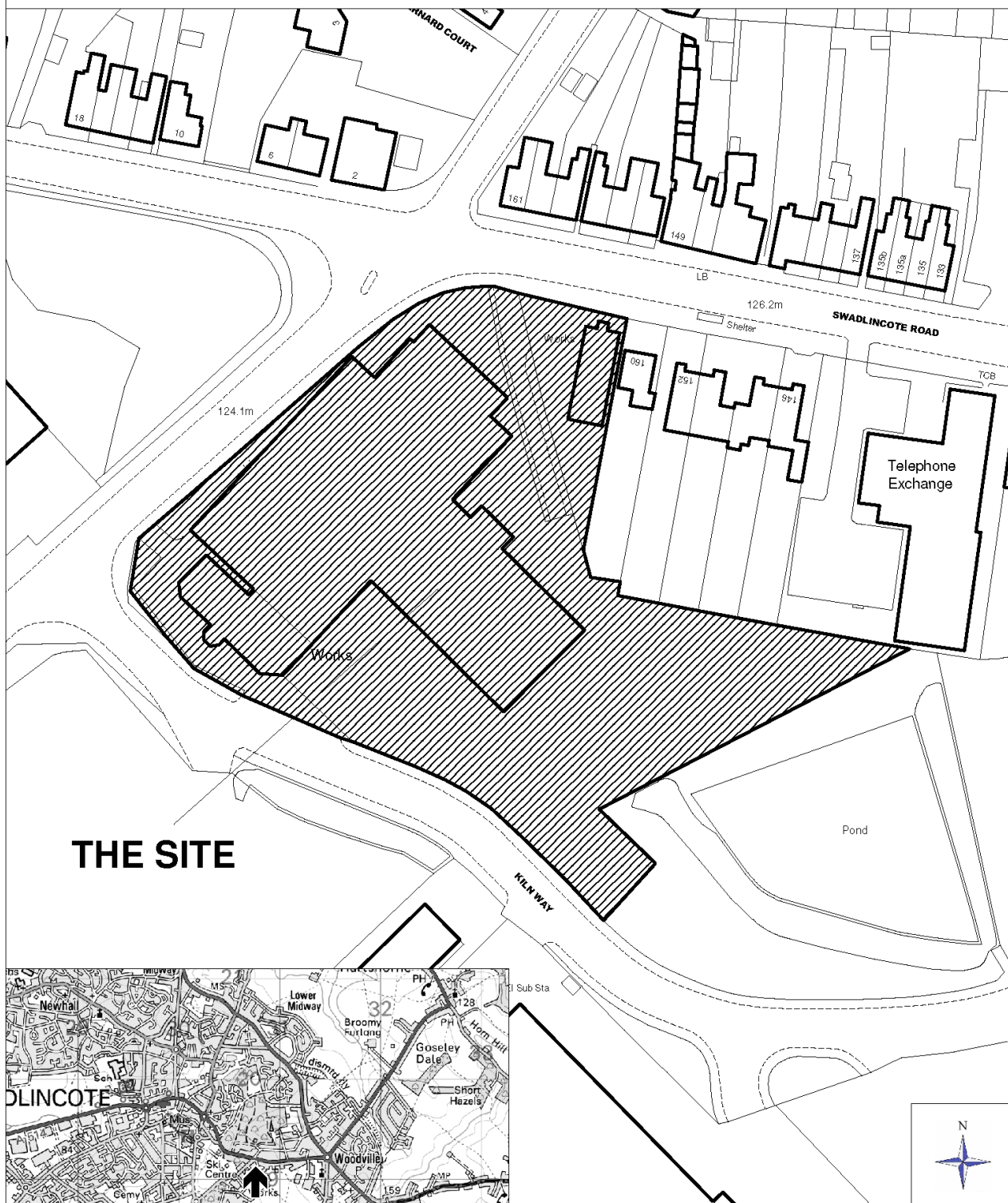
**Site Description**

The site has historically been used for general industrial uses (use class B2) with the surrounding land outside of the buildings used for ancillary storage. The site is located on the corner of Swadlincote Road and Woodhouse Street and whilst the site is contained by existing industrial uses to the south, there is a dense residential area to the north and east of the site.

**Proposal**

Consent is sought for the retention of the palisade fencing around the perimeter of the site and for it to be painted forest green in colour to reduce its visual impact. The installation of a new dropped kerb and a new access, the retention of a retaining wall to the rear and hardstanding and the use of a new section of the site (brought above by the demolition of an existing building and hardstanding) for industrial/storage purposes (use classes B2 and B8) are all part of this application – a resubmission following refusal of the 2016 application as listed below. The application is supported

9/2017/1401 - First Fence, Kiln Way, Woodville, Swadlincote DE11 8EA



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by a Noise Mitigation Report (detailed below) and for the palisade fencing to be painted forest green in colour, in order to address the previous reasons for refusal.

## **Applicant's supporting information**

### Planning Statement

The application site is located on the corner of Swadlincote Road, Woodhouse Street and Kiln Way. The site lies on the edge of an Industrial Estate with residential properties to the north on the opposite side of Swadlincote Road. The Environment Agency data shows that the site is located within flood zone 1. The application is considered to be compliant with the Local Development Plan and the NPPF and any adverse impacts would be significantly and demonstrably outweighed by the benefits of granting permission.

### Noise Mitigation Report

First Fence undertakes the manufacture, warehousing and distribution of permanent and temporary metal fencing and barriers. The typical hours of operation are between 06:00 – 18:00 hours Monday to Friday and 07:00 – 14:00 hours on a Saturday. Deliveries take place between 07:00 and 18:00 hours Monday to Friday and there are generally four to five loads. The northern area of the site is used for warehousing and the southern area of the site is used for manufacturing. The external north eastern area is used for external storage and is accessed between three to four times a day. Noise measurements were undertaken on Thursday 24th October 2017. The ambient noise climate at the receptor locations was dominated by road traffic on Swadlincote Road. Noise breakout from the manufacturing workshop was not audible at the receptor locations and was faintly audible immediately adjacent to the workshop façade during lulls in traffic. Activity within the external storage areas is intermittent in nature and the activities, when assessed, were not significant to the prevailing highway noise. Based on the assessment, operations at the facility have been categorised at a “No Observed Adverse Effect Level”. Noise can be heard but does not cause any change in behaviour or attitude, this can slightly affect the acoustic character of the area but not such that there is a perceived change to the quality of life.

### **Planning History**

970/35	Office Block – Approved with conditions – 04/11/1970
1171/44	Industrial building – Approved with conditions – 09/02/1972
373/16	Office – Approved with conditions – 17/04/1973
9/482/258	Single storey workshop extension - Approved with conditions – 26/05/1982
9/584/336	Erection of an extension on the flank of the building – Approved with conditions – 22/06/1984



- |             |  |
|-------------|--|
| 9/985/470   | The erection of a workshop extension of 1034 square metres floor area on the north eastern side of the factory premises – approved with conditions – 07/11/1985  |
| 9/0690/0274 | The erection of two storey extension – Approved with conditions – 26/07/1990   |
| 9/1095/0519 | Workshop and ancillary accommodation- Approved with conditions – 29/11/1995  |
| 9/0196/0737 | The erection of an extension to provide a workshop and compressor room in substitution for that permitted under planning application 9/1095/0519 – Approved with conditions – 21/03/1996   |
| 9/2016/0147 | <p>Use of site in connection with B2/B8 use retention of perimeter pallisade fencing installation of dropped kerb, retention of hardstanding and retention of retaining wall – Refused for the following reasons:</p> <ol style="list-style-type: none"> <li>1. <i>The proposal would constitute a materially different and new chapter in the planning use of the site, with proposed operations and activities also drawn closer to residential properties by the taking in of additional land and greater use of external areas. A Noise Assessment and mitigation proposals have not been submitted by the applicant and in the absence of this information, the Council is unable to determine if the use would be acceptable in principle, and/or whether mitigation could ensure appropriate living conditions for adjoining occupiers. As a result, the proposal fails to demonstrate compliance with policy SD1 of the Local Plan Part 1 and relevant provisions of the NPPF and PPG.</i></li> <li>2. <i>The perimeter fence adjoining the public highway(s), by virtue of its style, colour and position, fails to harmonise with the surrounding area, creating an unduly prominent and incongruous feature in the street scene. The proposal is therefore contrary to policy BNE1 of the Local Plan Part 1 and relevant provisions of the NPPF and PPG.</i></li> </ol> |

## Responses to Consultations

The Environmental Health Officer has no objections based on the submitted Noise Mitigation Report. This is subject to the use of a condition that all noise automated forklift trucks are removed from site and replaced with a white noise/non-audible reversing beacons within six months of the date of permission.

The County Highways Authority has no objections subject to conditions regarding the construction of the proposed dropped kerb onto Swadlincote Road.

The Development Control Archaeologist has no objection to the development as there would be no significant ground works that could impact on any below ground archaeology.

There have been no comments received from the Coal Authority but the proposed works bring about no significant ground works and a Coal Mining Risk Assessment would not be required as this is an exemption to consultation requirements.

## **Responses to Publicity**

Two letters/emails of objection have been received, raising the following concerns/points:

- a) There are a number of concerns about the company's general practice.
- b) A building that had previously been a Sunday School has been demolished.
- c) A number of trees have been removed and trees have had their lower branches removed. Due to the loss of privacy, residents do not use their gardens.
- d) The entrance on Swadlincote Road is being used as an entrance for staff vehicles including transit vans and flat-bed trucks. These vehicles are unloaded in an area adjacent to residential properties along Swadlincote Road.
- e) They are currently working all hours, creating noise from as early as 6am and even 4am. The noise is at such a level that it is impossible to leave windows open. There is constant noise from the workforce who are shouting above the sound of the steel panels.
- f) High intensity flood lights have been installed in an outdoor work area, which disturbs resident's privacy.
- g) Planning permission would be detrimental to all neighbouring properties as First Fence has no consideration for neighbours or their privacy.
- h) There are safety issues relating to the entrance that vehicles are using from Swadlincote Road and would cause further disruption to an already busy junction that is few yards from the entrance. Vehicles using this entrance would obscure the view of road users exiting the junction, which is extremely busy throughout the day.
- i) First Fence vehicles park all along Kiln Way on a regular basis (lorries, cars and vans) which exacerbates the problem, in addition with the front entrance being used more regularly.
- j) The proposal will generate a significant level of traffic.
- k) The working hours are to be extended for twenty four hours.
- l) The application is incorrect on specific details.
- m) Irreversible details have been carried out prior to the planning permission being sought/granted.
- n) The environmental issues have not been looked at and the implications have not been properly explored.
- o) Concerns as to where the numbers of staff will park as the site is at full capacity since the company have installed hardstanding for vehicles. If vehicles are not parked on site, they are parked on Kiln Way.

- p) The Environmental Health Officer has been involved due to noise and lights shining into properties. If the premises are allowed to operate over twenty four hours, this will exacerbate the problem.
- q) The use of the premises is affecting neighbours quality of life.
- r) The application is incorrect as the building has already been removed the building that stood on the land of Richardson's of Burton.
- s) The perimeter trees have also been removed and with it the screening that was available to residents and damaged neighbours fencing panels.
- t) The installation of the dropped kerb axis off Swadlincote Road; this axis only adds to congestion around the crossroads. There was an accident when it was used as an axis previously.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in favour of Sustainable Development), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E6 (Woodville Regeneration Area), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage).

## **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:

- Impact of the use
- The creation of a new access
- Visual impact of fencing
- Impact of hardstanding and retaining wall

## **Planning Assessment**

### Impact of the use

Whilst the premises has operated under a predominantly industrial use (use class B2) dating back to the 1970s with ancillary offices (use class B1) and ancillary

storage (use class B8), the demolition of the existing retail building (formally Richard's of Burton) and the incorporation and inclusion of this land into the existing industrial use causes a change in the site where it would bring about a revision to nil use. This would mean that the combined use of the existing industrial buildings and the area of the previous retail shop would need to be considered as a new industrial unit in its own right.

Due to the historic nature of the original approvals, the existing industrial use is largely unconditioned, which would mean that the use could operate at any time during the day or night with no noise mitigation measures on most parts of the existing building.

Owing to the concerns that were raised as part of planning application 9/2016/0147 and the unknown impact of potential noise, a Noise Mitigation Report has been submitted by the applicants with regard to noise levels across the site and the levels of noise which are experienced from the current use. There would be no openable delivery doors facing Swadlincote Road (which is adjacent to residential properties) and all deliveries would be taken to and from Kiln Way, which faces away from residential properties towards other industrial sites. Based on the findings from this report and the nature of the historic industrial uses that have been present at the site, it is considered that the current operations would not result in a level of noise that would have a harmful impact on the residential amenity of the local area. This would be subject to the imposition of a condition that within six months of a permission being granted that all reversing alarms on forklift vehicles shall be replaced with a broadband/white noise, or non-audible reversing beacons, to minimise the level of noise that is emitted from the site during deliveries.

#### The creation of new access

There were no objections raised by Planning Committee as part of planning application 9/2016/0147 to the proposed access which would be located on Swadlincote Road and would be positioned adjacent to the existing retail building that has since been demolished. The proposed access would comply with the principles of policy INF2 of the Local Plan Part 1 in that the position of the proposed access would be in a more suitable location in terms of driver and pedestrian visibility in comparison to the existing access which is located on the corner of Swadlincote Road and Woodhouse Street. The County Highway Authority has expressed no objection to the proposed access and has specified that the location of the new access would be more suitable than the existing and has requested by condition that the existing access would be closed off after the new access has been adequately installed.

#### Visual impact of fencing

As per the previous application assessed under application reference 9/2016/0147, the fencing consists of 2.4m high palisade fencing that has been erected around the perimeter of the site and is positioned adjacent to the highway along Swadlincote Road, Woodhouse Road and Kiln Way. The fencing has been erected in the same position and at the same height as the previous wire mesh fencing that was present on site before the palisade fencing was erected. The palisade fencing is currently

painted blue and it is proposed to paint the fencing forest green in colour in order to reduce its visual impact. Planning application 9/2016/0147 was refused on the grounds that the fencing would fail to harmonise with the surrounding area, due to its style, colour and position. The change of colour of the fencing to forest green would help to make the fencing less visually prominent.

On the basis that the fencing has been erected in the same position and same height as the existing/original mesh fencing and that an effort has been made to address the earlier refusal reason by changing the colour of the fencing to a more demure forest green colour, it is considered that the fencing would not be visually harmful to the character of the street scene and there have been no objections raised by the County Highway Authority with regard to highway safety. It would be considered that the forest green colour would be less visually prominent and would address the previous concerns raised as part of previous application 9/2016/0147. On the basis of this, it would be considered that the fencing would comply with policies BNE1 and INF2 of the Local Plan Part 1.

#### Impact of hardstanding and retaining wall

There were no objections raised by Planning Committee as part of planning application 9/2016/0147 to the retention of the hardstanding and retaining wall. The hardstanding has been installed in order to level and tidy the site and provide an area for ancillary storage at the premises. The outside area has always been used for ancillary storage purposes and therefore, the hardstanding would have a negligible visual impact. The hardstanding has been placed over the existing ground level which has not constituted ground works. On the basis of this, there have been no comments made by the Coal Authority and no objections raised the Development Control Archaeologist with regard to the proposed works and would comply with policies BNE1 and BNE2 of the Local Plan Part 1 and policy BNE10 of the Local Plan Part 2.

The retaining wall has been erected to the rear of the site and cannot be seen from Swadlincote Road, Woodhouse Road or the wider public realm. On the basis of this, the retaining wall would have no visual impact and would comply with the principles of policies BNE1 of the Local Plan Part 1.

#### Conclusion

The applicant has attempted to overcome the previous refusal reasons under planning application 9/2016/0147, through the submission of a Noise Mitigation Report to assess the noise levels experienced by the current use and ways of working that would help to reduce its overall impact. The proposed change of colour of the fencing to forest green would also assist with reducing the visual impact of the fencing and would ensure that it would appear more subordinate on the street scene.

In all other respects, the application remains unchanged from previous planning application 9/2016/0147, of which there were no reasons for refusal raised by the Planning Committee with regard to the proposed footway and access to Swadlincote Road and the retention of the hardstanding and retaining wall.

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 (proposed dropped kerb on Swadlincote Road) shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan (Plan 1), received on 22nd December 2018; and plan/drawing Location Plan, received on 22nd December 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Within 6 months of the date of permission, all reversing alarms on forklift trucks shall be removed from the premises and a scheme of broadband/white noise mechanisms, or non-audible reversing beacons shall be submitted to and approved in writing by the Local Planning Authority. The approved non-audible reversing mechanisms shall be implemented in accordance with the approved details within 6 months of the date of permission and all such vehicles used on the site thereafter shall comply with the approved details.

Reason: To protect the amenity of local residents and to ensure that the level of noise pollution is minimised.

4. Prior to the construction of the new vehicular access created to Swadlincote Road, a scheme of the access shall first be submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved access details and retained as such thereafter.

Reason: In the interest of highway safety.

5. Upon completion of the proposed vehicular access, the existing vehicular access to Swadlincote Road shall be permanently closed and details of a physical barrier and the existing vehicle crossover reinstated as footway shall be submitted to and approved in writing by the Local Planning Authority. The physical barrier and reinstated footway shall be constructed in accordance with the approved details.

Reason: In the interest of highway safety.

6. A sample/details of the forest green colour for the palisade fencing shall be submitted to and approved in writing by the Local Planning Authority. The



fencing shall be painted in accordance with the approved details within three months of the date of this permission.

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

Informatives:

1. 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 is available via the County Council's website [www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp), Email [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.

**Item**            **1.11**

**Ref. No.**        **9/2017/0767/FM**

**Applicant:**  
**Ms Nicola Sharratt**  
**62 Hall Road**  
**Rolleston On Dove**  
**DE13 9BY**

**Agent:**  
**Ms Nicola Sharratt**  
**62 Hall Road**  
**Rolleston On Dove**  
**Staffordshire**  
**DE13 9BY**

**Proposal:**    **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR  
THE RESIDENTIAL DEVELOPMENT OF A 3-BED DETACHED  
PROPERTY ON LAND ADJACENT TO 8 LINDSAY COURT  
SWADLINCOTE**

**Ward:**           **Swadlincote**

**Valid Date**    **18/12/2017**

**Reason for committee determination**

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

**Site Description**

The site is located on a vacant plot of land that abuts a public footpath to the front. There is a steep gradient which inclines upwards to the south of the site with a gradual dip in land level to the north of the site. The site is located adjacent to two public car parks and is under a five minute walk from Swadlincote town centre. There is a concentration of residential properties to the rear and side of the site which are predominantly two and a half storey/two storey semi-detached dwellings. The properties directly adjacent to the south of the site are a mix of retail and commercial properties.

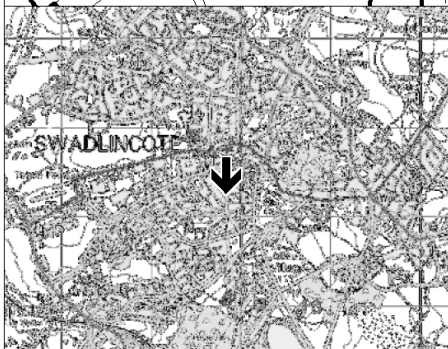
**Proposal**

Consent is sought for the erection of a two storey dwelling, there would be no vehicular access or parking proposed owing to the proximity of the site to the town centre.

**Planning History**

9/2003//0865 Residential Development - 14/11/2003

9/2017/0767 - 9 LINDSAY COURT, SWADLINCOTE, DE11 8JS



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9/2004/0915 The erection of four pairs of semi-detached properties and new vehicular access – 25/10/2004

9/2005/0438 The substitution of house type approved under application 9/2004/0915 - Withdrawn

### **Responses to Consultations**

The Contaminated Land Officer has no objections to the proposal. Whilst there is some evidence of the presence of potential infill or other former contaminative uses in the proximity of the development, the potential risk is likely to be small and therefore, the requirement to undertake a full land quality investigation is likely to be disproportionate to the risk.

The County Highway Authority has raised no objection to the proposal. Whilst there would be no car parking proposed as part of the proposed development, the site is located adjacent to a public car park and near to the core of the main town centre and on the basis of this, it is not considered that a highways refusal could be sustained. This is subject to a condition that a physical barrier is put in place across the site frontage to ensure that a vehicle could not access the property in the future without further consultation.

Following the submission of a more robust Coal Mining Risk Assessment (CMRA), the Coal Authority has withdrawn their initial objection subject to a condition that prior to the commencement of the development that an intrusive site investigation report is submitted detailing any findings and that any identified remedial works shall be incorporated into the development.

The Peak and Northern Footpaths Team have no objections provided that the footpath to the front of the site remains open and would not be obstructed.

### **Responses to Publicity**

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

- a) The proposed dwelling would be far too close to neighbouring lounge, kitchen, bathroom and bedroom windows.
- b) A previous development was altered because of this.
- c) The development would cause encroachment, loss of privacy and overbearance.
- d) This would be over-intensification and there would not be sufficient space for the dwelling.
- e) Vehicles would be too close to shop doorways and would be dangerous for customers.
- f) Tandem parking would have the potential for vehicles waiting on Alexandra Road to block the pavement.
- g) Vehicles reversing onto Alexandra Road risk an accident with pedestrians on the footpath.
- h) Vehicles would be driving over surfaces on the foot path.

An email has been received from Councillor Kim Coe raising a number of issues. The planning application is to rear of a company business premises on Alexandra Road. It is understood that a planning application for a build was turned down previously, there seems no reason for an application for a very similar build at this time in this spot. It would be over bearing and invasive in this very tight build spot. There is poor motor access, and it would impede on light, view and also service access.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF2 (Sustainable Access).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage).

## **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
- Amenity of Local Residents
- Visual Impact
- Highways Issues
- Other

## **Planning Assessment**

### Principle of Development

Policy H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2 support development of all sizes within the settlement boundaries. The site is located within the Swadlincote Urban Area and is located close to the main core of the town centre. The proposed dwelling would result in the development of an underused, vacant piece of land in a sustainable and accessible location. This would be supported by

the principles of policies H1 of the Local Plan Part 1 and policy SDT1 of the Local Plan Part 2.

The site is not registered as public open space and does not present an area of visual relief; as the site is currently obscured from the public footpath by 2m high close board fencing and does not currently contribute positively to the street scene or provide an active frontage along the footpath which is on route to the town centre. The development of the site presents an opportunity to improve the visual appearance of the site and provide a form of natural surveillance along the footpath.

### Amenity of Local Residents

The South Derbyshire Design Guide and policy SD1 of the Local Plan Part 1 specifies that a good level of amenity shall be provided for both proposed and existing occupiers in terms of overlooking, overshadowing and overbearing.

The proposed dwelling would not be positioned within the forty five degree splay of vision from the immediate neighbouring properties and therefore, a distance in excess of 21m can be achieved when measured from the immediate neighbouring properties which would be consistent with the minimum separation distances as contained within Council's Design Guide. The proposed dwelling would therefore, not interrupt the outlook from the neighbouring windows and would not lead to overbearance or overshadowing.

There would be no inter-visibility between the proposed windows and existing neighbouring windows as the proposed ground floor, rear facing lounge window would be obscured by the proximity of the rear boundary treatment and would interrupt the outlook from the window, and into the window by other properties. The proposed side facing ground floor and first floor windows would be positioned more than 5m away from the boundary of the site and would face onto blank elevations. The existing rear facing windows of number 48 Alexandra Road would be positioned on a ninety degree angle from the proposed windows of the dwelling and it would therefore, not be possible for there to be inter-visibility between these windows. The proposed dwelling would also be positioned outside of the splay of vision of the existing windows at number 48 Alexandra Road.

An application was withdrawn in 2005 for the erection of a pair of two and a half storey semi-detached dwellings at the site. The proposed development is a significantly reduced scheme to this in terms of height, size and massing and is a reduction in the number of dwellings.

It is considered that the proposed dwelling could be accommodated within the site and would provide a good level of amenity for existing and proposed occupiers and would comply with policy SD1 of the Local Plan Part 1 and the South Derbyshire Design Guide.

### Visual Impact

Policy BNE1 of the Local Plan Part 1 supports development that relates well to local surroundings, reflects the local vernacular and seeks to improve community safety.



Whilst the site does not fall within the Swadlincote Conservation Area, the site does lie adjacent to it and is currently obscured when viewed from the footway by 2m high close board fencing and does not currently make a positive contribution to the street scene. The immediate area is predominately characterised by two and half storey semi-detached dwellings with some commercial/retail premises along Alexandra Road. Due to the proximity of the site to the town centre, the immediate area shows a dense characteristic of development. The proposed dwelling would be two storey in height and of a narrow, modest construction and would present the gable end to the footway. The proposed dwelling would be smaller in size, scale and design than the majority of the immediate dwellings but overall, would be reflective of the general design, proportions and orientation of other buildings within the local area.

The proposed dwelling would make a positive contribution to the street scene and would provide an active frontage along the existing footway. On the basis of this, the proposal would comply with the principles of policy BNE1 of the Local Plan Part 1 and the Councils Design Guide.

### Highway Issues

The site falls within the built up area of Swadlincote and whilst it is noted that there is no parking proposed as part of the development, the site is located close to the centre of Swadlincote with easy access to shops, public transport links and two public car parks. This would result in a highway objection being difficult to sustain. Policy INF2 of the Local Plan Part 1 stipulates the need to reduce car travel and that public transport services should ideally be at a convenient walking distance to development. This is further encouraged through the NPPF which seeks the creation of development that gives occupants access to different modes of public transport.

It is noted that the creation of a vehicular access at the site would disrupt the existing footpath and pedestrian movement. The proposed development would not alter or disrupt the existing footpath and a condition shall be imposed whereby a physical barrier shall be erected along the frontage of the site to ensure that there would be no informal parking. The design and position of the barrier would be assessed as part of the details to discharge the condition. On the basis of this, it is considered that the proposed development would comply with policy INF2 of the Local Plan Part 1.

### Other

There has been no objection raised by the Coal Authority owing to a more robust Coal Mining Risk Assessment that has been submitted by the applicant. This is subject to a condition that a site intrusive investigation report is submitted prior to the works commencing and that any remedial works that are noted at this stage are incorporated into the development.

### Conclusion

For the reasons outlined above, it is considered that the proposed dwelling would make a positive contribution to the street scene and would provide a good level of

amenity for existing and proposed residents. Whilst there would be no vehicular access proposed as part of the application, owing to the position of the site close to Swadlincote town centre and its access to facilities, it would be considered that the proposed development would be positive and sustainable.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan, received on 18th December 2017; and plan/drawing 2014-313-01-A; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. No development shall commence on the site until a scheme of intrusive site investigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full and a report of the findings arising from the intrusive site investigations, along with proposed remedial measures (if any), shall be submitted to and approved in writing by the Local Planning Authority prior to any works of construction commencing. The approved remedial measures shall be implemented prior to first occupation of the building hereby approved.  
Reason: To ensure the stability and safety of the development to protect against coal mining legacy.
4. Prior to the construction of the dwelling house, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).  
Reason: To protect the amenities of adjoining properties and the locality generally.
5. The dwelling house shall not be constructed until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have

been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

6. Notwithstanding the submitted details, prior to the construction of the dwelling house, further details of the following building elements shall be submitted to and approved in writing by the Local Planning Authority:

(a) the windows and doors including the reveal, material and finish;

(b) the eaves, verges, headers and cills; and

(c) rainwater goods including their method of fixing.

These elements shall be constructed in accordance with the approved details and maintained as approved throughout the lifetime of the development.

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

7. There shall be no means of vehicular access to the dwelling house to which this permission relates. Details of a permanent physical barrier/boundary treatment to be erected across the entire site frontage, showing the; proposed location, height and appearance of the barrier, shall be submitted to and approved in writing by the Local Planning Authority. The physical barrier/boundary treatment shall be erected in accordance with the approved details prior to the first occupation of the dwelling and shall remain in perpetuity for the lifetime of the development.

Reason: In the interest of highway safety.

8. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

9. The dwelling house shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of landscaping and surfacing details. The landscaping scheme shall be implemented in accordance with the approved details prior to the occupation of the dwelling.

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

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a

period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

1. There is some evidence to suggest that the application site may have previously been subject to infill or that it is within 250m of a site which may have the potential to generate ground gas or leachate. Whilst we have no evidence to confirm this risk the applicant/developer's attention is drawn to the fact that there is the potential for production and migration of landfill gas. You are reminded that the responsibility for safe development rests with the owner and/or developer. Accordingly, the applicant/developer is advised to seek independent expert advice regarding the possibility of the presence, or future presence, of landfill gas and whether any precautionary measures are necessary.
2. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).
3. The public footpath no.32 must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
4. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

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

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

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

**Item**            **1.12**

**Ref. No.**        **9/2018/0239/FH**

**Applicant:**  
**Mr Mark Hopton**  
**c/o Agent**

**Agent:**  
**Mr Jim Malkin**  
**Jmi Planning Ltd**  
**62 Carter Street**  
**Uttoxeter**  
**ST14 8EU**

**Proposal:**    **THE ERECTION OF EXTENSIONS AND ALTERATIONS AT 22 MAIN STREET NEWTON SOLNEY BURTON ON TRENT**

**Ward:**           **Repton**

**Valid Date**    **28/02/2018**

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

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

#### **Site Description**

The application site is located on the main thoroughfare through the local service village of Newton Solney and is within the Conservation Area. The application property is a large detached house of special architectural and historic merit that contributes positively to the character and appearance of the Conservation Area. It is centrally located within a very generous plot, set back approximately 25m from the highway edge. The adjacent modern garage is of no special merit. The surrounding houses are a mix of detached and semi-detached 2-storey houses, the majority of which are aligned closer to the highway edge.

#### **Proposal**

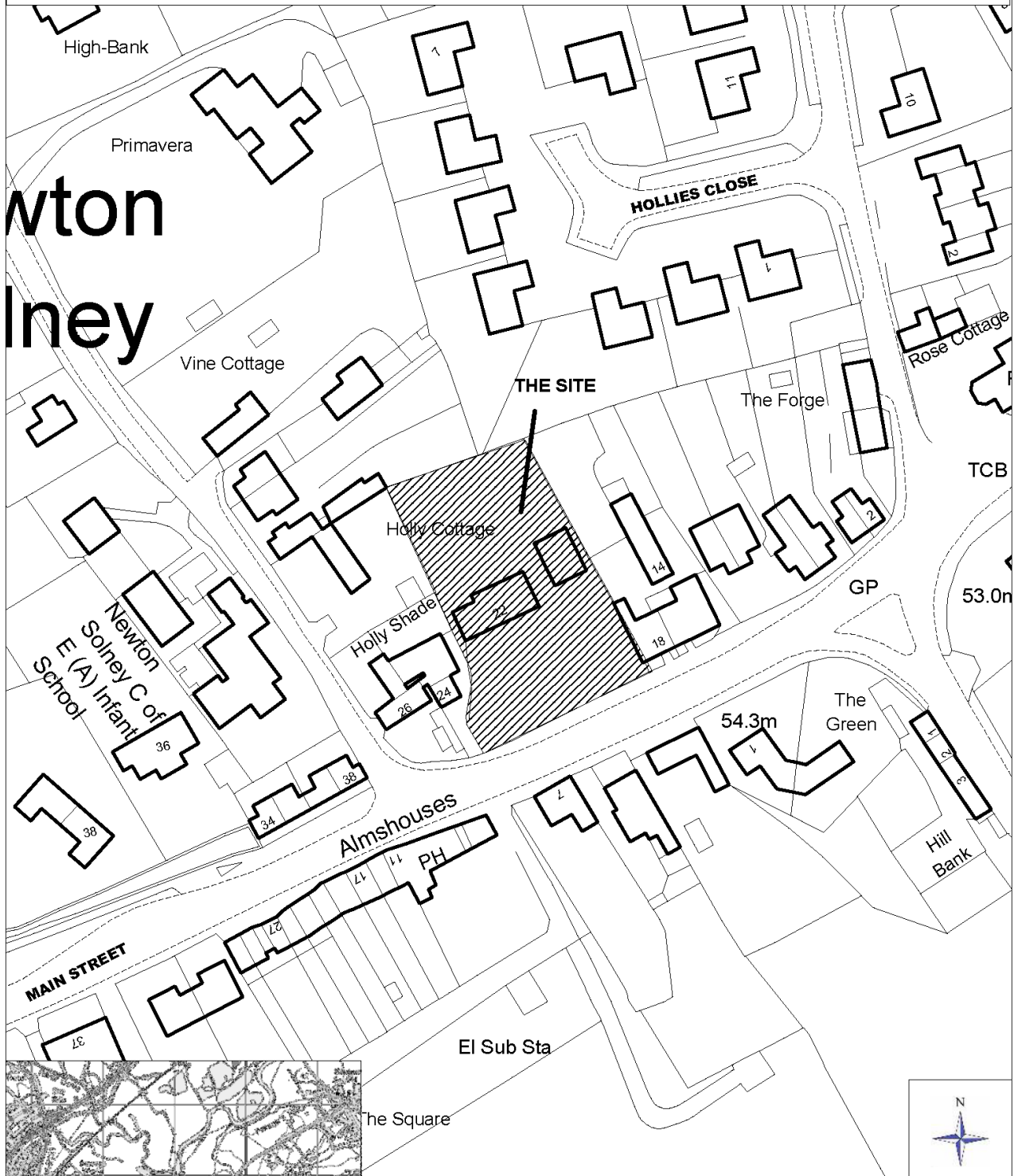
The application seeks planning permission for the erection of a traditional 2-storey extension to the east side of the host to match the existing one to the west. A more contemporary 2-storey extension is proposed to the rear of the main house with a single storey extension which would link to an attached garage/home office block with a basement on the site of the existing detached garage.

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

22 Main Street is an imposing detached property with a detached double garage/annexe, which is set back from the highway within a large plot. The site is



9/2018/0239 - 22 MAIN STREET, NEWTON SOLNEY, DE15 0SJ



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central to the village and is surrounded by residential properties of differing ages and styles. The property has been subject to a number of recent planning applications which are directly relevant to the current application.

The application proposes the extension and reconfiguration of the existing property to provide the applicants with a bespoke and eye-catching family home. The side and front extensions follow the traditional style, design and proportions of the existing dwelling, and the rear extension incorporates a modern design and open plan living that provides a juxtaposition of styles with the more traditional elements of the property.

The evolution of the project has been actively discussed with the planning officer and conservation officer, and has been altered and amended to their requests prior to formal submission.

### Statement of Significance

The building is located central to the Newton Solney Conservation Area and its significance is derived from its impact on this designated heritage asset. It is considered an important building and is highlighted in the Character Statement conservation area map. It is therefore considered that its significance to the heritage asset is derived from its individuality and quality which make it important to the character of the Conservation Area.

When considering the significance of the property on the heritage asset it is important to also consider the planning consent (9/2017/1199) for the detached dwelling within the curtilage.

### Assessment of Impact

The extensions have been given significant design consideration and has resulted in alterations that both protect the historic integrity of the property, whilst providing for a bespoke modern extension to the rear of the property. To the frontage traditional proportions have been utilised in the side extension, which ultimately balances the property with the existing subservient element to the left. In terms of the garaging and office block, this extends the property forwards and follows the principles of the consented dwelling but will keep the property together as a single unit, which is of significant benefit to the Conservation Area, and the retention of its character.

To the rear the inclusion of the modern extension which includes significant glazing within the structure will complement the traditional character of the dwelling and continue the theme of *'individual and quirky'* dwellings within the Conservation Area.

Of particular importance to the scheme is the existence of the extant planning permission for the erection of a detached dwelling. This permission has the effect of splitting the plot and this is felt to have a much more significant impact to the character and appearance of the heritage asset than this proposal. The granting of this application will nullify the existing permission for the independent dwelling, resulting in the plot retaining its historic scale and character, the scheme is therefore beneficial to the character and appearance of the heritage asset.

The extensions and re-modelling of the property, whilst extensive, are sensitive alterations to the original building which from public vantage points within the Conservation Area will reflect its original appearance and are a more sensitive addition to the plot than the consented dwelling. The rear extensions have significant design quality and propose a juxtaposition of architectural styles that clearly show the evolution of the property.

The development proposes the removal of a multi-stemmed silver birch to the rear of the property to facilitate the extension. This tree is of no significance in the Conservation Area and its loss will have no impact on the character and appearance of the heritage asset.

The impact of the scheme on the character and appearance of the Newton Solney Conservation Area has been fully considered above. This has concluded that the proposal does not result in any harm to designated heritage asset. In concluding that there is no harm in policy terms it is not necessary to further consider the test within paragraph 134 of the NPPF which requires less than substantial harm to be considered against the public benefits of the proposal.

The alterations to the property will follow the principles stated within the conservation area statement and will make a positive contribution to the Newton Solney Conservation Area. The proposals will therefore not result in any harm to the character and appearance of the heritage asset and are in compliance with the requirements of Chapter 12 of the NPPF, and policy BNE10 of the South Derbyshire Local Plan Part 2.

### **Planning History**

- 9/2017/1373 Relevant demolition consent for demolition of an existing garage – Approved 26th January 2018. The existing garage is modern and is of no historic or architectural interest and as such its demolition was considered acceptable.
- 9/2017/1199 The demolition of an existing garage and erection of a detached dwelling and lowering of front wall - Approved 26th January 2018.
- 9/2017/0865 The demolition of existing detached property and garage and the erection of a replacement dwelling with integral garage and alterations to front boundary wall with relocation of driveway gates – Withdrawn by Applicant on 17th October 2017

### **Responses to Consultations**

The Council's Tree Officer has advised that the affected tree to the rear, which the applicant wishes to fell, is a fully mature Silver Birch in very good condition with only one imperfection; it is twin stemmed (bifurcated). The union however appears strongly fused and the buttress roots are sturdy. It should be noted that the application form does not declare the need for any works to be carried out on any trees within falling distance of the development. There are full public views of the

tree from Trent Lane and the upper canopy is visible from Main Street and as such the tree has high amenity value. It is recommended that the tree is protected by a Tree Preservation Order, thus providing additional protection to its location within the Conservation Area.

No comments have been received from Newton Solney Parish Council.

### **Responses to Publicity**

3 objections (2 with comments of support) have been received, raising the following concerns/points:

- a) We are pleased that these new plans extend and enhance the current house and do not attempt to squeeze in an additional property. The roof light in the first floor Home Office is very low in the roof and as previously pointed out this will overlook my garden. Higher up the roof would be acceptable. The roof lights on the ridge would be fine. If a basement is to be constructed in the extension then care should be taken given the proximity to the rather fragile Victorian garden wall. I assume the existing garage is being demolished. We are generally supportive of this development.
- b) On the proposed plans it looks as if the main part of the house at the rear of the property is being enlarged and will go further back (into the garden) than the kitchen is and this will totally invade our privacy and it is very imposing especially with the amount of windows proposed on the plans. If it were not as far as the kitchen it would not be so bad and it would still be a very big house. There is a silver birch tree in the garden which has proposed plans to be taken down which also adds to the total lack of privacy. Totally opposed!
- c) The architect has done a great job in designing a scheme which preserves the significance of Fairfield as an important property in the Conservation Area. It is pleasing to see plans which will at last return the house to a family home. There is however, no mention in any documentation of the two protected trees on the site. Protective construction methods should be undertaken to prevent any damage to these and urgent work to remove the ivy and lop branches where necessary, should be carried out.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence – A1 e) Local character and pride, h) Neighbouring uses and amenity and g) Visual attractiveness), Policy BNE2 (Heritage Assets – A(i) Conservation Areas)
- 2017 Local Plan Part 2: H27 (Residential extensions and other householder development), BNE8 (Trees, woodlands and hedgerows), BNE10 (Heritage)

## **Emerging Policies**

The relevant policies are:

- Neighbourhood Development Plan (NDP): None

## **National Guidance**

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 56, 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- Planning Practice Guidance (PPG): ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

## **Local Guidance**

- South Derbyshire Design Guide (SPD): November 2017 – Appendices A & G
- Newton Solney Conservation Area Character Statement (CACS) – Adopted 2011

## **Planning Considerations**

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

- The impact on the character and appearance of the Conservation Area; and
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area.

## **Planning Assessment**

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

The Adopted Newton Solney Conservation Area Character Statement notes the application building as being of positive merit and making a positive contribution to the character of the Conservation Area (CA) reflecting the 19<sup>th</sup>/20<sup>th</sup> Century built form within the settlement. The architectural character of the house; its scale, form, design and detailing and its location within a spacious plot all indicate a historic dwelling of some status. While the building has had alterations/re-modelling over time, the 1881 OS maps indicates a large dwelling in this location, which is likely the current building. It positively contributes to the palette of materials and forms within the Conservation Area reflecting its historic expansion and evidence of the influx of wealth associated with the area.

Although the building is recessed within the plot it remains visible from the public realm due to its scale and inter-visibility through boundary treatments. Positive

characteristics and detailing includes the symmetrical front elevation with a vertical emphasis - with the later west side 2-storey extension remaining subservient so the three bay plan remains dominant - fenestration and decorative detailing in contrasting material. Although there have been alterations to the rear these are less evident due to their limited visibility.

The proposed extensions to the main house are of varied design and scale. The proposed two-storey east side extension would reflect the existing subordinate west side wing in matching materials, proportions and detailing. The set-back and scale would denote it as subservient and would serve to balance the property. The existing rear extensions are of poor quality and of an ad-hoc nature and there was considered scope for replacement during pre-application discussions with Officers. The main rear extension would be two-storey with a dual pitched roof form adjoined by a flat roof element disguised with a traditional roof slope. Although this part of the rear extensions would result in a complex roof form, due to limited vantage points from within the CA, it would appear as varied subservient pitched roof structures and the flat roof element would sit below the ridges of the gables. The varying height and scale of the proposed rear extensions, which also includes a single storey element attached to the rear of the proposed east side extension to the main house, would also aid in breaking up the mass and bulk of the additions. The rear elevations would be characterised by large extents of glazing which would add a contemporary element however they would continue to reflect a more traditional form and scale with pitched roofs and gables. There would be limited visibility of this from the public realm due to the existing built form and location at the rear of the site.

A previous permission (9/2017/1199) has been granted for the erection of a new outbuilding in place of the existing garage which would have served as a separate dwelling. The current proposal looks to re-build a similar range, albeit slightly longer and higher than previously approved and this would be attached to and associated with the main house. The increase in height would result in a steeper pitch roof which would be more reflective of the main dwelling and other historic outbuildings found in the CA. This element would be constructed in brick which would denote it as a subservient and ancillary range which contrasts with the render finish of the host dwelling and which would serve to distinguish the hierarchy of built forms on the site. Although this range would project forward of the front building line it would remain recessed back from the front boundary. The majority of the existing brick wall and railings to the frontage would remain which would be an enhancement on the previously approved scheme which looked to reduce the height of this attractive boundary treatment.

Considering the previous permission, the subservient and sympathetic nature of the most visible elements of the scheme and the limited visibility of the proposal to the rear, the amended proposal would be considered to preserve the positive contribution that the building and plot makes to the character of the Conservation Area in compliance with Policy BNE2 of the 2016 Adopted Local Plan Part 1 and Policy BNE10 of the 2017 Adopted Local Plan Part 2.



### The impact on the living conditions of the adjoining properties and the general character and appearance of the area

Ground levels between the application property and the surrounding neighbours are relatively flat and the application site is bounded by close boarded fencing to the north and west boundaries and a brick wall to the east boundary, all of which are of an adequate height to preserve the privacy levels that are currently enjoyed at ground floor level.

There is adequate separation between the rear elevation of the proposed two-storey extension and the closest neighbour to the northwest (Holly Cottage) to comply with the requirements of the Council's SPD with regard to maintaining privacy and avoiding overbearance. The amended plans show the use of switchable privacy glazing to the full height windows of the master en-suite and dressing rooms, which are classed as non-habitable rooms for SPD purposes. Privacy glazing is an established electrical glass solution that allows controllable privacy through a glass unit, turning the glazing from transparent to translucent instantly. The adjacent bedroom would not have this glazing however there is adequate separation, even given the 10% additional allowance given to full height first floor windows, to comply with SPD guidelines.

The proposed 'outbuilding' range to the west side of the main house would be predominately single storey with a home office within the roof space of the double garage. The amended plans show the raising of the proposed rooflight in the east facing roofslope of the proposed outbuilding range so that the cill level would be 1.7m above the internal floor level. This would alleviate the overlooking concern raised by the neighbour.

The proposed scheme, as amended, would be sympathetic to the character of the existing street scene and the existing house would retain its dominance as the host property.

The proposal would conform to the requirements of Policy BNE1 of the 2016 Adopted Local Plan Part 1 and Policy H27 of the 2017 Adopted Local Plan Part 2 in that the proposed development would be of a scale and character in keeping with the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area. The proposal would conform to Policy SD1 of the 2016 Adopted Local Plan Part 1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development. The proposal would conform to the requirements of the NPPF and the PPG and with Policy S2 of the 2016 Local Plan Part 1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

## Recommendation

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing no's 06, 08 and 09, received on 16th May 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of eaves, verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The items shall be constructed in accordance with the approved drawings.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. External joinery shall be in timber, unless the material of the full height windows/doors are alternatively specified under condition 4, and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of the appearance of the building(s) and the character of the area.
6. A large scale section of the flat roof from ridge to central section shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The roof shall be constructed in accordance with the approved drawings.

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

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

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

8. Pointing of the existing/proposed building(s) shall be carried out using a lime mortar mix of either lime putty or NHL 2 in a 1:2.5/3 ratio (lime:sand) using a sharp, well-graded aggregate unless alternative details are first submitted to and approved in writing by the Local Planning Authority. The finished joint shall be slightly recessed with a brushed back finish.

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

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

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

10. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the root protection area of the protected tree shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the tree from undue disturbance

11. No development shall take place until an Arboricultural Method Statement (AMS) has been submitted and approved in writing with the Local Planning Authority. The AMS should include details of all excavation within RPAs, and include contingency plans for, if large roots are encountered during this process (e.g. to hand dig to determine exactly where roots are growing and either prune them in accord with BS:5837). Any approved measures shall be implemented in accordance with the AMS, whilst all protective fencing shall be erected prior to works starting on site and retained as such until the construction phase is completed.

Reason: To protect the trees/landscape areas from undue disturbance

12. There shall be no tipping or deposition of materials within the area fenced under condition 10 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

**Item**            **2.1**

**Ref. No.**        **9/2017/0786/FX**

**Applicant:**  
**Mr & Mrs R Lewis**  
**Bodens Sticks**  
**Cropper Lane**  
**Osleston**  
**Ashbourne**

**Agent:**  
**John Steedman**  
**Steedman Planning**  
**Wayside Cottage**  
**Ingleby Road**  
**Stanton-By-Bridge**  
**Derby**  
**DE73 7HU**

**Proposal:**    **CHANGE OF USE OF PART OF EXISTING WOODLAND FOR  
PROVISION OF SIX LOG CABIN HOLIDAY LETTING UNITS AND  
ASSOCIATED CAR PARKING AT BODENS STICKS CROPPER  
LANE OSLESTON ASHBOURNE**

**Ward:**           **Etwall**

**Valid Date**    **21/07/2017**

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

The item is presented to Committee at the request of Councillor Brown as the committee should debate the issues in this case which are very finely balanced.

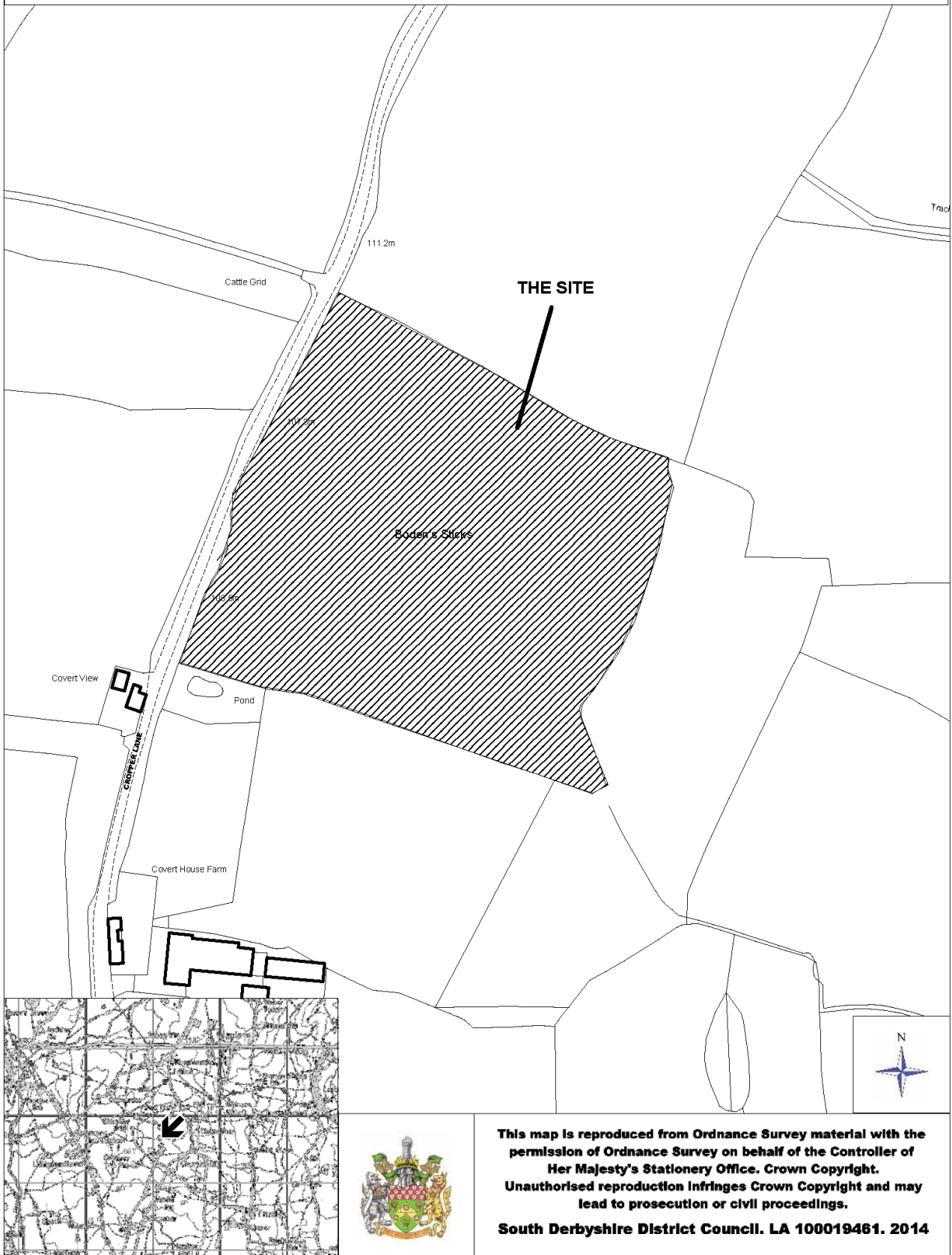
#### **Site Description**

The site is located on Cropper Lane, south of Thurvaston and just north of the small settlement of Cross Lanes. Open fields surround the site with Covert House Farm over the fields to the south and a detached property Covert View over the road to the south west. The site frontage is on Cropper Lane and has mature Oak and Ash trees adjacent to the road. Land levels drop to the east within the site and the ground is often waterlogged. It is dense woodland with a mix of mature trees and juvenile self-set trees and is damp and dark. The woodland is protected by TPO 454 which was confirmed on 16<sup>th</sup> June 2017. A hedgerow exists on the western boundary on Cropper Lane.

#### **Proposal**

Planning permission is sought for six log cabins with access and car parking. The proposed plan shows 6 large (13m x 6m) caravan / log cabins in a group in the north eastern part of the site with the access 61.5m from the edge of the site boundary to the south west off Cropper Lane. The access is proposed 70m into the wood.

9/2017/0786 - BODENS STICKS, CROPPER LANE, OSLESTON,  
ASHBOURNE, DE6 5BL



## **Applicant's supporting information**

The Phase 1 Habitat Survey and Protected Species Assessment considers the habitat to be of high ecological value in relation to local surroundings and a regional context. The report considers the lack of management at Boden's Sticks is restricting the sites potential to support a greater diversity of habitats and associated diversity. Woodland comprises the main habitat of the application site; however this habitat is in a poor state and can be considered to be dying. The site has the potential to support significant or notable plant species or plant communities. The Phase 1 Habitat Survey was conducted outside of the optimum season for determining botanical value. The site is suitable to support an assemblage of breeding birds including species of significant or notable conservation status. Potential impacts to breeding birds as a consequence of the proposals would be in the form of direct harm to breeding birds, their nests, eggs or young. A number of mature trees were gauged to offer suitable opportunities for roosting bats and awarded Category 1\*, 1 and 2 status accordingly. Potential impacts to foraging and commuting bats as a consequence of the proposals would be in the form of loss of habitat or disruption to established flight paths. A total of 18 ponds were located within 500m of the application site and the application site itself possesses optimum terrestrial habitat for resting, hibernation, commuting and foraging great crested newts (GCN). Potential impacts to GCN if present in the area would be in form of habitat loss, degradation or direct harm to individual GCN. The site provides suitable habitat for common species of reptile, notably grass snake (*Natrix natrix*), in the form of patches of open woodland edges, woodland clearings and dense scrub. Deadwood within the woodland is also likely to provide suitable reptile refugia. The report recommends further survey works for plant species, breeding birds, bats, GCNs and reptiles.

The Biodiversity Management Plan sets out the following objectives:

- 1) Enhance the woodland habitat by maintaining mature trees, encouraging the healthy growth of young trees and by creating graded diverse woodland edge habitats. Increase the diversity by selectively thinning the understorey to allow ground flora to develop naturally. Manage invasive plant species.
- 2) Create a wildlife pond to provide habitat for a variety of flora and fauna, including great crested newt. Create artificial a hibernaculum for amphibians.
- 3) Maintain and enhance the existing species-rich hedgerow along the western boundary.
- 4) Supplementary habitat for faunal species: Install a variety of bat roost boxes and bird nest boxes to provide additional habitat for faunal species.
- 5) Monitoring and review of Management Plan: Monitor the effects of management on habitats, flora and fauna and take remedial action where necessary. Review and update the Management Plan.

The Great Crested Newt Method Statement Mitigation Strategy & Enhancements concludes that no ponds will be affected by the works and only approximately 0.1ha of land within 250m of a breeding pond will be impacted by the proposals. Therefore an offence is 'highly unlikely' according to the Natural England Risk Assessment Tool. All works involving vegetation removal and ground works will be supervised by a suitably qualified ecologist. Vegetation will be cut to 20cm using a handheld brush-cutter. This will take place over the winter to avoid the bird nesting period. The remaining 20cm of vegetation and any groundworks would be carried out during the



spring breeding period (April – June inclusive) when newts are most likely to be in the ponds and least likely to be present within the working area. The access road and car park will be constructed first and the lodges would be winched into place from the car park. Following works, the woodland habitat would be enhanced for a variety of fauna and the inclusion of a new pond in the proposals would provide increased potential breeding habitat for amphibians.

A further letter by the Applicant's Ecologist dated 19<sup>th</sup> January 2018 stated that only a 'very minor section' of hedge required removal and explained why a Natural England Licence was not deemed necessary due to lack of GCN breeding identified and avoidance methods recommended. An avoidance method is also proposed for breeding birds and habitat management through the management plan.

The Arboricultural Implications Assessment and Arboricultural Method Statement describes the site as an area of woodland, consisting of mature, semi mature and sapling trees with areas of scrub and a healthy shrub layer and ground cover. The largest trees are along the boundaries and to the west of the site. It states the area highlighted for the proposed holiday units sits to the southeast of the site and that the access has been strategically placed to avoid major disruption to the mature trees. There would be a requirement to remove several younger trees and areas of scrub. It considers that with 'no dig' methods of driveway construction detail and ground protection for these trees they would not be adversely affected and would continue to provide a great deal of visual amenity value for the foreseeable future. It recommends protective fencing, geotextile membrane and the driveway constructed using a cellular confinement system. It states there would be no structures within the RPAs of the trees.

The Planning Statement describes the change in tourism and states that the Local Plan Policy INF10 introduces the concept of tourism development being preferably of a reversible nature, to establish whether or not the demand truly exists and this has informed the development. It states that the site is in need of a comprehensive woodland management exercise to ensure that the site continues to exist and to encourage the creation of a rich, diverse habitat. It considers the creation of a simple tourist destination would contribute to the resources available ensuring the ongoing sustainable management providing a special, unique and interesting habitat for visitors. It is designed to restore the woodland and maintain a habitat for the benefit of the natural environment. It states the location of the lodges was chosen as it is a natural clearing. The bases for the lodges would have a cellular confinement system and the site would have two septic tanks. The objectives of the Woodland Management Plan are listed. It states suitable access visibility can be achieved and the proposed traffic generated would equate 12 two-way trips per day x 70%, leading to no more traffic generation than a single large house in a rural area. It concludes the proposal complies with Policy INF10.

The Statement of Demand considers that the proposal would meet the needs of the market by offering a rural but luxurious escape in a beautiful and secluded environment. The alternatives in the market are either large scale holiday parks or farmers' fields with lodges, camping pods or yurts. The applicant's proposition offers small scale boutique woodland lodge holidays. The report describes the occupancy rate of similar developments as 60% with a national booking company confirming demand. The proposal would benefit existing services and destinations locally and

lists the existing potential competitors. It concludes that the proposal would provide bespoke holiday offering within a natural environment in a peaceful location for its clients. There are sufficient attractions in the immediate locality to warrant its choice as a destination, with a cost advantage over the offerings available in the more established holiday venues in the Peak District. The growth in UK holidays due to the favourable exchange rate will strengthen the demand for this type of facility. There are currently no similar facilities available in the immediate area, so there is expected to be a demand resulting from the overall growth in the market.

## Planning History

9/2016/1032 Change of use of part of existing woodland for provision of six log cabin holiday letting units and associated car parking, was refused in April 2017 for the following reasons:

- 1) *Insufficient information has been submitted to demonstrate that the proposal could be accommodated on this site without extensive damage to the mature trees within the woodland protected by TPO 454. An appropriate arboriculture survey has not been provided in line with the requirement set out in Policy BNE3 (part B) and it is not possible to identify the likely effects of the development and establish whether the benefits of the scheme clearly outweigh the losses (as required by Policy BNE3Av). Saved Policy EV 9 states that development will not be permitted which would lead to the loss of areas of woodland or specimen trees of value to their landscape setting. BNE7 states that where development is proposed that could affect trees, woodland and / or hedgerows developers will be expected to demonstrate that the layout has been informed by an appropriate arboricultural survey and appropriate measures are secured to ensure adequate protection. The proposal is contrary, LP1 Policy BNE3, Submitted Policy BNE7, NPPF paragraph 118 and based on the risk of loss of woodland or specimen trees would be contrary to Policy EV9 of the 1998 Adopted Local Plan.*
- 2) *Insufficient information has been submitted to demonstrate that the proposal could be accommodated on this site without extensive damage to the mature trees that provide habitat for protected species. The mitigation proposed for protected and priority species is insufficient and the likely impacts of the increased level of disturbance from increased public presence have not been provided. Policy BNE3 requires that proposals that could have a direct or indirect effect on sites of potential or actual ecological importance including priority habitats and species will need to be supported by appropriate surveys or assessments sufficient to allow the likely impacts of the scheme to be understood and sufficient measures identified to mitigate potential harm.*

## Responses to Consultations

The Highways Authority states that although the internal layout has changed their previous comments on the 9/2016/1032 application remain valid. This response stated that vehicle speeds of 42mph mentioned in the speed survey are considered appropriate given the nature of Cropper Lane. Plans indicate that visibility sightlines of 2.4m x 120m can be achieved. On this basis, there are no objections and conditions in respect of access and parking and manoeuvring areas are recommended. (Attach conditions)

Derbyshire Wildlife Trust states that further botanical surveys are required together with surveys indicating potential impacts on reptiles and breeding birds. The AIA and AMS submitted fails to acknowledge that the site supports deciduous woodland priority habitat and states that the removal of several younger trees and areas of scrub would be necessary. The proposal requires the removal of a section of species-rich native hedgerow without proposing any details of compensatory hedgerow planting. The works would impact on the potential terrestrial habitat of GCNs. They do not agree with the conclusion of the GCN Method Statement Mitigation Strategy and Enhancement Report as a Natural England Licence would be required. The survey identifies the presence of four bird species of Principle Importance and further consideration needs to be given to how the increased levels of human disturbance will be controlled and minimised through the provision of area of non-intervention within the woodland. Insufficient consideration has been given to the increased disturbance impacts on priority bird species and that no specific measures have been provided in the supporting information to address this issue. Consideration of the presence of Wych Elm and the butterfly species White-letter Hairstreak is required.

The Environmental Health Officer has no comments to make in terms of residential amenity and noise.

The Council's Tree Officer states that the mature trees within the woodland appear to 100-140 years old; this means that mean the woodland has evolved, largely unmanaged for over 100 years. It is young semi-natural woodland with dominant Oak and Ash trees, a few large mature Birch and Willow and masses of juvenile self-set Ash (pole stage). The worthwhile understorey trees are mainly scattered Hawthorn, Elder and Field Maple. The woodland is damp and dark mostly inaccessible, with as you would expect fallen decaying timber. Aesthetically, the woodland has a high degree of amenity. The entire woodland is covered by a Woodland TPO which was confirmed on 16<sup>th</sup> June 2017. The submitted AIA and AMS do not fully encompass all trees as no Oaks are assessed. Errors within the originally submitted report sections 6.1.1 and 6.1.2 have been corrected. An objection is maintained on the basis that the woodland would be transformed from wild natural woodland into amenity woodland. Health and safety issues would surface and it would become very difficult to oppose works to trees likely to cause injury to persons or property.

The Economic Development Manager states that the aims of the proposed development align with those of the South Derbyshire Economic Development Strategy and The National Forest Tourism Growth Plan. Both documents recognise

tourism as an expanding sector of the local economy with potential for further growth. Also, as a means of job creation in rural areas, that would also support local services, such as village shops and pubs. Maximising the potential of The National Forest is highlighted in the Economic Development Strategy as one of the key issues for South Derbyshire. Whilst the site is outside the Forest boundary, it would still contribute to it from a tourism destination perspective (and similarly the Peak District).

## **Responses to Publicity**

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

- a) There are concerns regarding highway safety as Cropper Lane is a very winding and narrow lane which is unsuitable for the existing level of traffic.
- b) Cropper Lane is in a bad state of repair and this would be exacerbated by the potential 70% rise in traffic associated with the proposal.
- c) The proposed access is on a dangerous bend in the lane and in a narrow section.
- d) The proposal would cause noise and disturbance to local residents.
- e) There is no need for holiday lettings as there are some nearby at Windlehill Farm.
- f) The wood has been untouched for 25 years and is home to fauna, flora, badgers, owls, moorhens, bats and newts.
- g) Loss and damage to the Protected Trees is likely.
- h) There are no protective measures as to how the natural habitat or priority species would be monitored in the future.
- i) There would be potential environmental and planning harm to the landscape and it would have an adverse impact on the countryside.
- j) Cropper Lane has large tractors using it and is not lightly trafficked as people use it as a route from Derby to Hilton.
- k) The site is not close to other leisure areas and holiday cottages nearby are under occupied.
- l) The site has been managed coppiced woodland previously as the hedgerow was laid and maintained until the sale of the land.
- m) The Habitat Survey states that the proposal is for up to ten camping pods and the marketing report mentions hot tubs, both of which would involve more clearance of the woodland.
- n) The proposal would result in the loss of a species rich hedgerow on the western boundary.
- o) The proposal would impact on the habitat of Great Crested Newts.
- p) The site has existing drainage problems which would impact on the log cabins.
- q) There is a discrepancy regarding the reports in terms of the car parking area location and surfacing.
- r) The ancient woodland dates back to the 1800.
- s) The proposal would damage 100 years of habitat.

## Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2, E7, SD1, BNE1, BNE3, BNE4, INF2, INF10
- 2017 Local Plan Part 2: BNE5, BNE7

## 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
- Impact on Trees
- Impact on Ecology
- Identified Need for Tourism
- Highways
- Residential Amenity

## Planning Assessment

### Principle of Development

The site is located in the countryside and is both isolated and remote; a common characteristic of such developments. Local Plan Part 1 (LP1) policy S2 states there is a presumption in favour of sustainable development unless material considerations indicate otherwise. Policy INF10 is most relevant as it relates to tourism development. This policy states that overnight accommodation will be permitted *‘...in other appropriate locations where identified needs are not met by existing facilities. Opportunities for new or improved sustainable access arrangements such as public transport provision, walking and cycling should be maximised. New tourism development would be expected to be accommodation of a reversible or temporary nature, sustainable and well- designed new buildings where identified needs are not met by existing facilities.’* Finally it states that new tourism development that is likely to give rise to undue impacts on the local landscape, natural environment will be refused. Significant impacts have been identified in relation to the proposal in relation to trees and ecology and as such the proposal is not considered acceptable in principle. These impacts are dealt with in turn below.

The woodland appears to be 100-140 years old and has evolved unmanaged for a decade. It has a high amenity value in the local landscape and is considered to provide habitat for a variety of protected species.

## Impact on trees

Local Plan Part 2 (LP2) policy BNE7 relates to trees and requires proposed development that could affect trees to demonstrate that the layout and form of the development has been informed by appropriate arboricultural surveys, shading impacts have been considered and appropriate measures secured to ensure adequate root protection and buffers around trees, woodland and hedgerows.

The Council's Tree Officer is of the view that the survey work submitted is not adequate and that appropriate measures had been recommended to prevent damage to the RPAs of the trees. On this basis, the Council employed an arboricultural consultant to review the Arboricultural Assessments submitted. This report identifies 3 individual trees and one group as 'A' category trees where the submitted report does not give any trees within the wood this category and considers 17 trees, two groups and a hedgerow as category 'B'. The submitted report only identified 7 trees as 'B' category. This is a marked difference in assessment. The Council's consultant considers the impacts of the access to involve the significant loss (approx. 101 metres) of the moderate quality hedgerow with a good species mix, cutting back of low tree canopies over the highway (category 'A' and 'B' trees) and works within the RPAs of retained trees. In order to assess impacts and appropriate mitigation, details of level alterations within the RPAs would be required and details of replacement hedgerow including species mix, size and planting arrangement is considered necessary.

The impacts associated with the driveway and lodge plots would involve removal of part of low quality groups of tree mainly understorey species including Snowberry, Blackthorn, Elder and some Birch together with access within the RPAs of low and moderate quality trees. The mitigation proposed by the applicant is the use of three-dimensional cellular confinement system to prevent compaction within the RPAs of retained trees. The Council's consultant noted that the ground within the woodland during the survey was very wet and marshy and thus considered that the use of this system may be inappropriate for such sites as the system may move and distort and become inappropriate for vehicle use, thus encouraging new more robust systems. Alternative systems like pile and beam may be more suited to such a site.

A further impact identified by the Consultant was that any new proposed drainage may have an adverse effect on retained trees where alterations to existing hydrology causing loss or decline of particularly mature trees on site. The proposal is located within a woodland which is covered by a Tree Preservation Order No 454 and would require the loss of trees covered by a woodland designation. The proposal involves works to 'high to moderate' quality trees to provide the access, significant loss of hedgerow and loss of low quality trees and works within the RPAs of higher quality trees. It is considered that the proposal would put pressure on the Council to allow further tree removal and further development within the woodland, to the detriment of this significant established woodland which has a high level of amenity within the landscape. It is considered that adequate surveys and mitigations measures have not been supplied and the proposal would have a detrimental impact on this protected woodland contrary to LP2 Policy BNE7.



## Impact on ecology

Policy BNE3 relates to biodiversity and states that development which contributes to the protection, enhancement, management and restoration with net gains will be supported and protecting ancient woodland and veteran trees from loss, unless the need for, and benefits of, the development in that location clearly outweigh the loss. The aim within the NPPF is to conserve and enhance biodiversity and where significant harm resulting from the development cannot be avoided or mitigated then permission should be refused.

The 'Magic' website shows the site as 'deciduous woodland' priority habitat which is not acknowledged by the Tree reports submitted and the proposal involves the removal of sections (101m in total) of species rich native hedgerow which meets the definition of UK BAP priority habitat. The visibility plan submitted indicates replacement hedging set back from the road to achieve the visibility splays required of approximately 96m, however, no specific detail is provided in terms of species or numbers of plants. This removal would also increase the risk of harm to the local great crested newt population associated with pond 1 as the hedgerow offers suitable terrestrial habitat.

The survey work has found that the presence of Great Crested Newts in a pond in the southern part of the site and acknowledges that the woodland provides good potential shelter and overwintering for the species and that their presence within working areas cannot be ruled out. However, the survey concludes that a Natural England licence would not be required. The Wildlife Trust does not agree with this conclusion as a licence is required. The survey identifies the presence of four bird species of Principle importance (Bullfinch, Dunnock, Marsh Tit and Song Thrush) and the Wildlife Trust considers that the proposal has potential to adversely affect breeding birds through increased levels of human disturbance both during construction and operational phases. No specific measures have been provided to address this issue.

The Wildlife Trust also advise that with the presence of Wych Elm and records of a priority species butterfly in the wider area the potential presence of the species (White-letter Hairstreak) requires consideration. Although the submitted Biodiversity Management Plan prepared by EMEC Ecology recognises that a key part of the management strategy is to leave some areas of the site unmanaged to retain dense under-scrub areas for red-listed birds, further consideration needs to be given to how the increased level of disturbance from increased public presence would be controlled and minimised through the provision of areas of non-intervention within the woodland.

The woodland comprises lowland deciduous woodland priority habitat. The Wildlife Trust note that a number of woodland indicator species including Moschatel, Broad Buckler-fern and Male Fern have been omitted from the species-list provided as Appendix 3 of the Various Ecological Surveys report produced by EMEC Ecology dated June 2016. The presence of further woodland indicator species identifies a greater level of botanical interest associated with the wood than the submitted supporting information suggests. A more detailed assessment would be required to establish if the woodland meets the criteria for designation as a Local Wildlife Site,

thus determining the woodland to be of County level of value in addition to priority habitat status.

It is considered that the introduction of areas of hardstanding, log cabins, septic tanks, parking spaces and access tracks into the woodland together with the disturbance associated with an increase in public usage would have an overall adverse impact upon the integrity of the woodland priority habitat. While some management of the woodland would be beneficial, the proposed development would introduce a level of disturbance to an otherwise undisturbed tranquil rural area, contrary to LP1 Policies BNE3, INF10 and paragraph 118 of the NPPF.

Policy BNE4 expects developers to retain key valued landscape components such as mature trees, established hedgerows unless it can be demonstrated that the loss of features will not give rise to unacceptable impacts. This woodland has a high number of mature trees and a high level of amenity value within the surrounding landscape. It is highly visible when travelling along Cropper Lane as a feature within the local landscape and the loss of the hedgerow would have a significant impact on biodiversity together with loss of a protected species habitat. The proposal is thus contrary to LP1 Policy BNE4.

#### Identified Need for Tourism

Policy INF10 ii) requires evidence of the identified needs not being met by existing tourism facilities. The submitted Statement of Demand includes details of market need and demand and details of similar proposals in the area. The Council's Economic Development Manager considers that the proposal aligns with the aims of the South Derbyshire Economic Development Strategy and The National Forest Tourism Growth Plan. The latest research reveals that tourism in the area is growing - nearly 8.2 million visitors came to the National Forest in 2016, and that tourism spend has now reached £395.2m, sustaining 4,849 FTE jobs. The development proposes Non-Serviced Accommodation - in The National Forest this sector has grown dramatically:

- From 17,000 visitors in 2003 to 50,000 in 2016.
- From 94,000 tourist days in 2003 to 331,000 in 2016.
- From 80 people directly employed in 2003 to 208 in 2016.

Over the period 2003-16 the number of Non Serviced Accommodation bed spaces has risen by 1,605, of which 431 were in self-catered units. The popularity of Non-Serviced Accommodation has also grown relative to other forms of accommodation (e.g. hotels). Further the growth is increasingly year-round, with the highest levels of growth taking place during off-peak periods. The above data indicates a growing demand for the type of Non-Serviced Accommodation proposed.

Recent research has highlighted a number of trends along the lines suggested:

- Growth of shorter trips.
- Higher frequency of trips amongst affluent audiences.
- Staycationing is here to stay.
- Self-catering accommodation increasing in popularity due to being flexible and cost effective.

On the basis of the information submitted and above detail the proposal is considered sufficient to satisfy this part of the policy.

### Highways

The Highway Authority considers that an access could be formed with the sufficient visibility splays and adequate parking and manoeuvring areas provided and as such they have no objections and the proposal accords with LP1 Policy INF2 and NPPF paragraph 32.

### Residential Amenity

LP1 Policy SD1 requires that developments do not lead to adverse impacts on the amenity of existing and future occupiers as does BNE1 h), and NPPF paragraph 17 seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings. The nearest dwellings to the site are Covert View on Cropper Lane which would be approximately 90m from the nearest lodge proposed and Covert House Farm to the south approximately 139 metres away. At these distances and with the existing screening of the woodland the impact on the residential amenities of these properties is not considered significant and as such the proposal is considered to accord with Policies SD1, BNE1 h) and provisions within the NPPF.

### Conclusion

The proposal is located within a woodland which is covered by a Tree Preservation Order No 454 whereby the proposal would result in the loss of a significant length of moderate quality hedgerow, works to category A and B trees and works within the RPAs of retained trees. The proposal would result in pressure to allow further tree removal and further development within the woodland, to the detriment of this significant established woodland which has a high level of amenity within the landscape. The proposal would have a detrimental impact on the protected woodland whereby inadequate mitigation measures are proposed contrary to LP1 Policy BNE4, LP2 Policy BNE7 and NPPF paragraph 118.

The woodland comprises lowland deciduous woodland priority habitat with the proposal resulting in the loss of a significant section of species rich native hedgerow which meets the definition of UK BAP priority habitat and the resultant risk of harm to the local great crested newt population together with the loss of suitable terrestrial habitat for this protected species. Direct impacts are identified in relation to priority bird species with possible impacts on priority butterflies. The proposal and the disturbance associated with an increase in public usage would have an overall adverse impact upon the integrity of the woodland priority habitat. The proposal would result in direct impacts on both habitat and protected species without adequate mitigation proposed and as such is contrary to LP1 Policies BNE3, BNE7 and INF10 and paragraph 118 of the NPPF

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

## Recommendation

**REFUSE** permission for the following reasons:

1. The proposal is located within a woodland which is covered by Tree Preservation Order No 454 whereby the proposal would result in the loss of a significant length of moderate quality hedgerow with a good species mix, cutting back of low tree canopies over the highway of category A and B trees, loss of low quality trees and works within the RPAs of retained trees. Adequate mitigation has not been provided in the form of details of level alterations within the RPAs, details of the replacement hedgerow and evidence of how the three-dimensional cellular confinement system proposed would be appropriate on land that is wet and marshy together with details of the drainage proposed, as alterations to existing hydrology may cause the loss or decline of mature trees on site. Together with the direct impacts identified, the proposal would result in pressure to allow further tree removal and further development within the woodland, to the detriment of this significant established woodland which has a high level of amenity within the landscape. The proposal would have a detrimental impact on the protected woodland with the resultant unacceptable effects on landscape character whereby inadequate mitigation measures are proposed contrary to Local Plan Part 1 Policy BNE4, LPP2 Policy BNE7 and NPPF paragraph 118.
2. The woodland comprises lowland deciduous woodland priority habitat with the proposal resulting in the loss of a significant section of species rich native hedgerow which meets the definition of UK BAP priority habitat and the resultant risk of harm to the local Great Crested Newt population together with the loss of suitable terrestrial habitat for this protected species. Adequate mitigation detail in terms of replacement or translocation of the hedgerow has not been supplied. The survey identifies the presence of four bird species of Principle importance (Bullfinch, Dunnock, Marsh Tit and Song Thrush) and the proposal has potential to adversely affect breeding birds through increased levels of human disturbance both during construction and operational phases and adequate mitigation is not proposed. The presence of Wych Elm and records of a priority species butterfly in the wider area indicates the potential presence of the species which has not been given consideration. A number of woodland indicator species including Moschatel, Broad Buckler-Fern and Male Fern have been omitted from the Ecological submission which may identify a greater level of botanical interest associated with the wood. It is considered that the introduction of areas of hardstanding, log cabins, septic tanks, parking spaces and access tracks into the woodland together with the disturbance associated with an increase in public usage would have an overall adverse impact upon the integrity of the woodland priority habitat. The proposal would result in direct impacts on both habitat and protected species without adequate mitigation proposed and as such is contrary to Local Plan Part 1 Policies BNE3, BNE7 and INF10 and paragraph 118 of the NPPF.

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

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2017/0503	Shardlow Road, Aston on Trent	Aston	Allowed	Delegated
9/2017/0616	Bretby Lane, Bretby	Repton	Dismissed	Delegated
9/2017/1059	Hilton Road, Egginton	Etwall	Dismissed	Delegated
9/2017/1011	Burntheath Lane, Hilton	Hilton	Dismissed	Delegated

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## Appeal Decision

Site visit made on 3 April 2018

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 24<sup>th</sup> April 2018**

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**Appeal Ref: APP/F1040/D/17/3188149**

**Moorside House, Shardlow Road, Aston on Trent, Derby, DE72 2AN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Lynn Mahony against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0503, dated 10 May 2017, was refused by notice dated 14 August 2017.
  - The development proposed is described as "erection of garden buildings, walls and fencing".
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### Decision

1. The appeal is allowed and planning permission is granted for garden buildings, walls and fencing at Moorside House, Shardlow Road, Aston on Trent, Derby, DE72 2AN in accordance with the terms of the application, Ref 9/2017/0503, dated 10 May 2017, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall be in accordance with the following approved plans: DE722AN-03.4.2 Rev D; DE722AN-03.4.3 Rev D; DE722AN-03.4.4 Rev D; DE722AN-03.4.5.
  - 2) The planting along the north western boundary of the appeal site, and the synthetic ivy attached to the stone gabion walling, shall hereafter be retained. Any trees or plants which within a period of 5 years from the date of this Decision die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

### Procedural Matters

2. The Council adopted a new Local Plan Part 2 in November 2017, after its refusal of planning permission. The new local plan has superseded the saved policies of the previous South Derbyshire Local Plan (1998). In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision.
3. The development has already been constructed and the appeal is therefore retrospective in nature.

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### **Main Issue**

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

### **Reasons**

5. The appeal property is a detached dwelling on the north western side of Shardlow Road. It is largely surrounded by open countryside. A public footpath runs along its northern boundary and through a small field to the rear.
6. The stone gabion boundary walling and outbuildings are relatively prominent from the footpath, although their visibility in wider views is more limited. The submitted plans state that the walling is ivy covered, and at the time of my site visit synthetic ivy was attached to it. This creates a natural effect that softens its appearance. Conifers have also been planted along the north western boundary of the site. This planting provides screening to both the walling and outbuildings in views from along the footpath, and this will increase as the conifers mature. In my view, these measures result in an appearance that is in keeping with to the rural surroundings of the property.
7. There are currently 4 timber outbuildings in the rear garden area. Of these, 3 are small structures that are comparable in size to a traditional garden shed. The largest outbuilding is a centrally located 'L shaped' structure that is positioned close to the rear boundary. It is seen mostly in the context of the much larger host property to the rear, and is subservient in scale and appearance. It is not unduly prominent in views from the footpath, and in time it will be obscured to a greater extent by the boundary planting. The loss of openness created by the outbuildings is minor and does not have a significant effect on the surrounding countryside in my view. Moreover, the decking and seating areas are not readily apparent from outside of the garden itself, and so their effect on the wider character of the area is limited.
8. For the above reasons, I conclude that the development would not significantly harm the character and appearance of the area. It would therefore accord with Policy BNE1 of the South Derbyshire Local Plan Part 1 (2016) and Policies H26 and H27 of the South Derbyshire Local Plan Part 2 (2017). These policies seek to ensure, amongst other things, that householder development is of a scale and character in keeping with the property and does not result in a detrimental domestication of the countryside.

### **Conditions**

9. I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. I have also imposed a condition that requires the boundary planting, and the synthetic ivy attached to the stone gabion walling, to be retained. This is necessary to preserve the character and appearance of the area.

### **Conclusion**

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

*Thomas Hatfield*

INSPECTOR

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## Appeal Decision

Site visit made on 3 April 2018

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

Decision date: 26<sup>th</sup> April 2018

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**Appeal Ref: APP/F1040/W/18/3193047**

**Newton Mount, Bretby Lane, Bretby, Burton-on-Trent, DE15 0QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Finnegan against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0616, dated 17 June 2017, was refused by notice dated 4 September 2017.
  - The development proposed is described as an agricultural shed.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

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

### Main Issues

3. The main issues are:
  - (a) Whether the development is essential to a rural based activity;
  - (b) The effect of the development on the character and appearance of the countryside; and
  - (c) Whether the development would prejudice highway safety.

### Reasons

*Essential to a rural based activity*

4. The development proposes an agricultural building outside of the defined settlement boundary. In this regard, Policy BNE5 of the South Derbyshire Local Plan Part 2 (2017) is supportive of development in rural areas that is essential to a rural based activity, provided certain criteria are met.
5. The appellant states that they have a flock of 40 ewes, and are engaged in potato growing and agricultural contracting. However, aside from this, relatively limited information has been submitted regarding the operation and

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extent of the business. In this regard, no accounts or sales records from the business have been provided. Moreover, it is unclear where lambing currently takes place, what storage facilities are used at present, or how the building would facilitate the expansion of the contracting aspect of the business. The appellant also controls only a relatively small area of land, and whilst a letter has been submitted regarding an agreement to rent an additional 12 acres, it does not state how long this tenancy is for. There is also no certainty that the appellant will be able to acquire additional land in the future.

6. The appellant has submitted 3 letters in support of the appeal proposal. These include a letter dated 23 January 2015 confirming registration with the Rural Payments Agency, a letter dated 7 November 2012 confirming registration with Animal Health, and a holding registration document dated 2 November 2006 from DEFRA. However these letters only refer to an initial registration with the relevant body, and each is more than 3 years old. In the absence of more detailed information about the business, it is not clear that the development is essential in order to support a rural based activity so as to be unavoidable in the countryside. Moreover, it is also unclear why a building of this particular design and specification is necessary in order to meet the appellant's requirements.
7. For the above reasons, I conclude that it has not been demonstrated that the development would be essential to a rural based activity. The development would therefore be contrary to Policies BNE5 and BNE6 of the South Derbyshire Local Plan Part 2 (2017). These policies seek to ensure, amongst other things, that new development in rural areas is essential to a rural based activity and is suitable for its intended purpose.
8. The Council's Decision Notice also refers to Policy E7 of the South Derbyshire Local Plan Part 1 (2016). However, that policy relates primarily to rural economic diversification and the re-use of redundant farm buildings. It is therefore not directly relevant to the current appeal proposal.

#### *Character and appearance*

9. The proposed building would be positioned on the eastern fringe of the site. It would be located on the edge of a wider area of hardcore that is currently used for open storage and car parking.
10. There would be a significant gap between the proposed building and the existing group of properties to the west. In this regard, the development would stand apart from the existing properties, and this would be apparent from a number of vantage points including from along the access route. The building would also be positioned in a particularly prominent part of the site that would be visible in longer views from the surrounding area. The appellant states that an alternative location within an adjoining field was considered, but that drainage and servicing problems militated against this. However, the precise location of this alternative position is not before me and it is unclear whether other less sensitive positions within the site have been fully considered. In these circumstances, it has not been demonstrated that the visual intrusion caused by the development is warranted. Whilst the development would have an agricultural appearance, and there are other buildings in the surrounding landscape, that does not justify its position in such a prominent part of the site.

11. It is suggested that planting could be undertaken along the northern and eastern sides of the building in order to break up its appearance. However, the submitted plans indicate that the concrete slab would extend almost to the boundary. It is therefore unclear whether there would be scope to accommodate significant boundary planting in this position.
12. For the above reasons, I conclude that the development would significantly harm the character and appearance of the countryside. It would therefore be contrary Policies BNE5 and BNE6 of the South Derbyshire Local Plan Part 2 (2017). These policies seek to ensure, amongst other things, that development does not unduly impact on landscape character and quality.

#### *Highway Safety*

13. The appeal site would be accessed via a narrow unadopted route that currently serves a small number of existing properties. The Highway Authority has objected to the proposal on the basis that a non-agricultural use would intensify the use of this access, including at the junction with Bretby Lane.
14. The proposal is for an agricultural building to serve an existing farming business. Whilst I note that the junction at Bretby road is on a bend and has restricted visibility, it is already used by the appellant to access the site and adjoining land. It is therefore not clear that the proposal would result in a significant increase in vehicle movements if used for agricultural purposes associated with an existing business, which is what has been applied for. Moreover, there are a number of passing places along the length of the access that would allow for 2 vehicles to pass one another.
15. For the above reasons, I conclude that the development would not prejudice highway safety. It would therefore accord with the National Planning Policy Framework which requires that development be served by a safe and suitable access.

#### **Conclusion**

16. For the reasons set out above, I conclude that it has not been demonstrated that the development would be essential to a rural based activity, and that it would harm the character and appearance of the countryside. Whilst I have found that the development would not prejudice highway safety, this does not alter my view that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR

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## Appeal Decision

Site visit made on 16 April 2018

by Sarah Colebourne MA, MRTPI

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

Decision date: 27<sup>th</sup> April 2018

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**Appeal Ref: APP/F1040/W/18/3194631**

**Longdon Park School, Park Hill, Hilton Road, Egginton, Derby, DE65 6GU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Longdon Park School against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/1011, dated 18 September 2017, was refused by notice dated 27 November 2017.
  - The development proposed is a new MUGA on existing lawn area at the front of the building.
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### Decision

1. The appeal is dismissed.

### Main issue

2. The main issue in this case is the effect of the proposed development on the setting and the significance of the listed building.

### Reasons

3. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 requires that where the harm is less than substantial, it should be weighed against the public benefits of the proposal. Policies BNE2 and BNE10 of the South Derbyshire Local Plan (LP) (2016) reflect the statutory duty and accord with the Framework.
4. Longdon Park School is a grade II listed building referred to as Park Hill in the listing description, a small country house built as a dower house for Egginton Hall in the early C19th. Whilst it has Victorian and later additions at the rear, its principal elevation is largely unaltered. The Council says that a OS map of 1886 indicates extensive grounds and parkland associated with the house, reflecting its status. I saw that parts of the grounds have been subject to later alteration and division which have reduced the contribution of those areas within its setting to its significance. Although the lawn in front of the main

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elevation on which the proposed games area would be sited is some 900mm below the level of the building and has been previously excavated and relaid to provide a croquet lawn, this has not diminished its positive contribution to the setting and the significance of the listed building. Although it is the side elevation which is seen first in approaching the building, the driveway extends past the principal elevation and from there the lawn is clearly seen as part of the setting. Thus it has both a visual and a historic connection to the listed building.

5. The proposed games area would be sited some 20m from the building and would be separated from it by the driveway and an existing parking area from which steps lead down to it. It would occupy most of this lawn and would be surrounded by 3m high steel mesh fencing finished in green around its perimeter. The artificial surface and the fencing would introduce uncompromisingly modern elements into the foreground of the historic building. Whilst I noted at my visit that there is similar fencing around the site boundary, the proposed fencing would interrupt views of the main elevation across the lawn and when seen from within the building would further interrupt the main view outwards across the lawn and the open land beyond. Although the development would not be prominently sited when seen from the road, the appellant's photographs show that the fencing would be clearly seen through the trees in the approach along the driveway. It would, therefore, diminish the attractive setting of the building and hence its significance. Whilst the harm I have identified from the proposed development would be less than substantial, it gives rise to a statutory presumption against permission and I must give it considerable importance and weight.
6. I do not under-estimate the benefits of the provision of an all year round, on-site games area in supporting the physical, social and emotional and educational needs of the school's pupils who are children with Autism Spectrum Disorder. The school says that this is the only space large enough for games and sports to be played, owing to the location of existing trees and other features elsewhere on the site. Whilst I noted that there are formal gardens close to one side of the building and a number of mature trees within the grounds, there may be other areas of the grounds which could provide a less sensitive siting for such an area away from the principal elevation subject to some alterations to the layout of the grounds. I am not satisfied that there is no alternative siting for a games area and therefore the justification and public benefits cited by the appellant are not sufficiently compelling to justify the harm that would be caused by the proposed development as required by paragraphs 132 and 134 of the Framework.

### **Conclusion**

7. For the reasons given above, the proposal would fail to preserve or enhance the setting and the significance of the listed building at Park Hill, contrary to LP policies BNE2 and BNE10 and the development plan as a whole and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

*Sarah Colebourne*

Inspector



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## Appeal Decision

Site visit made on 16 April 2018

**by Sarah Colebourne MA, MRTPI**

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

**Decision date: 27<sup>th</sup> April 2017**

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**Appeal Ref: APP/F1040/W/18/3194229**

**Follyfoot Farm, Burntheath Lane, Hilton, Derby, DE65 5FE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Clive Hateley against the decision of South Derbyshire District Council.
  - The application, Ref 9/2017/1059, dated 29 September 2017, was refused by notice dated 18 December 2017.
  - The development proposed is described as 'Change of Use from an Agricultural Building to Dwellinghouse Under Class Q of the Town and Country Planning (General Permitted Development) (England) Order'.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters and background information

2. It is clear from the application and the plans that prior approval is sought under both class Q(a) for the change of use and under class Q(b) for the building operations reasonably necessary to convert the building.
3. In order to benefit from the provisions of the GPDO, proposals must meet the requirements of paragraph Q.1(a) which states that development is not permitted if *'...the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013 or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use'*. Schedule 2, Part 3, paragraph X of the GPDO sets out that an *'established agricultural unit'* for the purpose of Class Q means agricultural land occupied as a unit for the purposes of agriculture, on or before 20 March 2013 or for 10 years before the date the development begins.
4. The Council's decision refused prior approval on the grounds that the proposal fails to comply with Class Q.1(a) in that insufficient information has been provided to demonstrate that the building was last used solely in agricultural use as part of an agricultural unit on or before 31 March 2013.
5. The building which is the subject of this appeal is one of four detached former farm buildings sited to the rear of the appellant's house. The building was one of three for which prior approval for change of use to dwellings was refused in

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2017 on structural grounds and a subsequent application for the change of use of the appeal building to a dwelling was refused on design grounds. The Council accepts that the current proposal overcomes those objections.

### **Main Issue**

6. The main issue is, therefore, whether the proposal satisfies the requirements of Class Q of the GPDO 2015 (as amended), in terms of paragraph Q.1(a), with regard to being permitted development for the change of use from agricultural buildings to dwellings.

### **Reasons**

7. 'Agriculture' as defined in Section 336, paragraph (1) of the Town and Country Planning Act 1990 (as amended), amongst other things, includes horticulture, fruit growing, seed growing, the breeding and keeping of livestock and the use of land as grazing land. Schedule 2, Part 3, paragraph X of the GPDO further sets out that for the purposes of Part 3 permitted development rights, 'agricultural building' means a building (excluding a dwelling house) used for agriculture and which is used for the purposes of a trade or business and 'agricultural use' refers to such uses.
8. The appeal building is a single storey building with a shallow pitched, asbestos sheet covered roof over a concrete frame with single brick infill between the columns. The appellant's structural survey says that it was originally a series of pig pens. The appellant says that it is one of three buildings within the site that is not being used as part of his existing business (which the Council says the planning history for the wider site describes as the making of props for film and television) and whose last use was for agricultural purposes, specifically in connection with a pig farm, the housing of chickens and more recently for the storage and repair of light agricultural equipment. However, the only evidence in support of that contention is a witness statement from a neighbouring resident who has stated that the previous owners of the property used all of the buildings at the rear as part of the farming business until it was sold to the appellant in 1993. He states that to the best of his knowledge since then it has not been used for any other purpose and has been used solely and without interruption for agricultural purposes. However, I have not been provided with any other evidence such as photographs, Council tax records or business accounts to verify these claims.
9. The appellant also accepts that a small proportion of the building (less than 10% of its volume) has been used for incidental domestic storage but considers that this is 'de minimis' with the number of items stored in the building so minor that they have no legal consequence. At my visit I saw that the whole of the building was in such use and that domestic items were being stored along both sides of the building, occupying most of its floor area, as also evidenced in the Council's photographs of March 2017. On this basis and given the lack of sufficiently compelling evidence to the contrary, I agree with the Council that this constitutes considerably more than 'de minimis' and that a material change of use has taken place from agricultural to ancillary domestic use.
10. Taking all of the above into account, based on the evidence before me, observations during my visit and the balance of probabilities, I am not satisfied that the site and building have been used solely for an agricultural use as part of an established agricultural unit as required by paragraph Q.1(a).

**Conclusion**

11. I conclude that, for the reasons given above, the proposed development fails to satisfy the requirements of Class Q of the GPDO 2015 (as amended), in terms of paragraph Q.1(a), with regard to being permitted development for the change of use from agricultural buildings to dwellings. The appeal should therefore be dismissed.

*Sarah Colebourne*

Inspector