

Date: 7 January 2019

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 15 January 2019 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Members**

Councillors Coe and Tipping

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council Procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 50**

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

- 5** 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.
- 6** To receive any Exempt questions by Members of the Council pursuant to Council Procedure Rule No. 11.

**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.

Reference	Item	Place	Ward	Page
9/2014/0886	1.1	Newhall	Stanton & Newhall	5
9/2018/0938	1.2	Overseal	Seales	31
9/2018/1126	1.3	Bretby	Repton	36
9/2018/1312	1.4	Church Gresley	Church Gresley	42

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.** 9/2014/0886/OS

**Applicant:**  
**Mr Stuart Ashton**  
**Harworth Estates**  
**AMP Technology Centre**  
**Brunel Way**  
**Waverley**  
**S60 5WG**

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

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT FOR UP TO 68 DWELLINGS TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, ASSOCIATED DRAINAGE INFRASTRUCTURE AND CREATION OF PEDESTRIAN AND CYCLE WAYS ON LAND AT SK2720 7907 (SITE A) PARK ROAD CADLEY PARK SWADLINCOTE**

**Ward:** **Stanton & Newhall**

**Valid Date** 01/10/2014

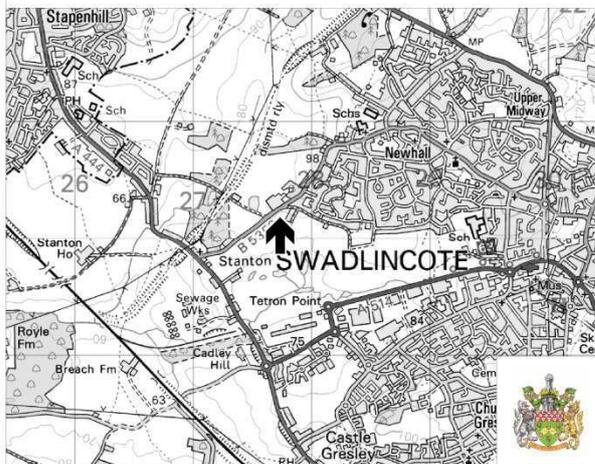
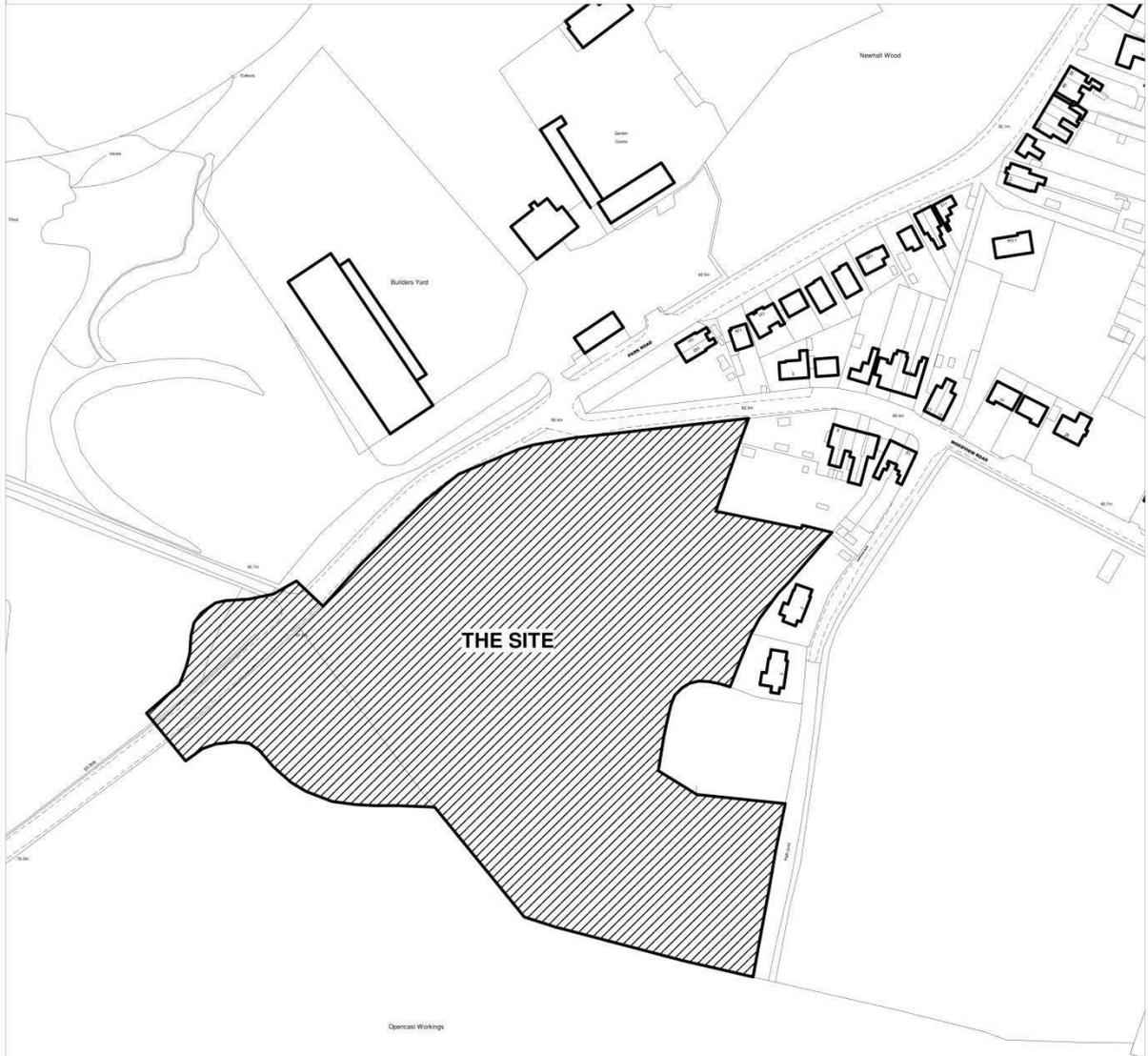
#### **Reason for committee determination**

The Committee will recall that this is a major application that the Committee determined and was minded to approve on 2nd June 2015. However, the Section 106 was not signed because it was necessary for the applicant to negotiate with the County Council to secure a right of access to the site. The application has since been amended to include 0.21 Ha of land to the north and to increase the number of dwellings by 8, hence its presentation back to the Committee for consideration.

#### **Site Description**

This 3.01 hectare site is located to the south of Woodview Road, Newhall, bounded by Copperas Road to the east and Park Road to the West. Build Base is opposite the site on Park Road. The golf course is to the south and south east. The site is currently agricultural grazing land and from the highest point of the site in the north-eastern corner adjacent to existing properties the land levels reduce by 9 metres to the southern edge of the site over a distance of 210m. There are 1-2m high hedgerows along the boundaries with Park Road to the west and Woodview Road to the north.

9/2014/0886 - Land at SK2720 7907 (Site A), Park Road, Cadley Park, Swadlincote DE11 0UH



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

Existing public footpaths Swadlincote FP 96 runs along Park Road, FP98 runs along Copperas Road with FP 99 starting opposite on Park Road and running along the access track to the rifle range to the west.

## **Proposal**

Outline planning permission is now sought including access for residential development of up to 68 dwellings. The site is the smallest of three sites surrounding the Golf Course known as Site A, with the Site B for 132 dwellings on Woodland Road, Stanton and Site C for 400 dwelling on William Nadin Way.

Access off Park Road is proposed via a roundabout approximately 10m from the rifle range access opposite the site. A 4.9m -7.2 landscaping buffer is proposed along Park Road linking to the LEAP in the northern part of the site adjacent to Woodview Road. Five single storey dwellings are proposed to the rear of existing single storey properties on Copperas Road.

The access would link to a feature square which would join two internal roads to serve the northern parts of the development providing a loop. A central feature square would link to a cull-de-sac serving the western part of the site. Buffer planting would define the access with a landmark building as an entrance feature. A LEAP is proposed in the northern part of the site with a 20m wide buffer to proposed dwellings and a feature square to the south. Proposed footpath links are shown to link in two locations along FP98 to the west. A potential cycle route is indicated along the Park Road frontage and along the southern part of the site to link to the cycleway along the northern boundary of the golf course.

## **Applicants' supporting information**

The Planning Statement states that the application should be considered in the context of the site wide masterplan that provides the framework for the wider development proposals at Cadley Park. Policy H2 of the Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. The Masterplan which accompanies all three planning applications demonstrates that the sites have been considered holistically with other development and open space enhancement opportunities. New pedestrian and cycle links are proposed within the site which would connect to existing networks. The proposal also complies with the site specific requirements in emerging Local Plan Part 1 Policy H2 and would help meet the Council's current housing land supply shortfall.

Subsequent to this latest scheme amendment the agent consultant explains that since the first viability assessment a significant 'ransom' payment has been made to the County Council to facilitate the access. Notwithstanding this, the applicants have decided that it would not challenge the provision of the proportionate additional affordable housing units concluding that the delay and cost of undertaking a further viability assessment would not be justified from their standpoint.

The Design and Access Statement describes the proposal within the context of the masterplan, the history of the site and assesses the site in terms of landscape context, visual impact, and character of surrounding areas. The character assessment areas identified were Swadlincote town centre, the A444 corridor,

Newhall and the new housing at Castle Gresley. An assessment of services has been undertaken and routes of movement and assessment of the planning policy context. The public consultation exercise is summarised and the evaluation of the design and layout is outlined in a series of diagrams with descriptions.

The Consultation Statement outlines the methods used to consult the public on the proposal. A website was set up which included the indicative masterplan, information leaflet and comments form. The public exhibition was held on 7th July 2014.

The Tree Survey Arboricultural Assessment surveyed a total of one individual tree, five groups of trees and one hedgerow. The Oak tree is categorised as B moderate quality / value and the groups as C low quality / value due to their lack of maturity. To facilitate the new access into this parcel of development, a section of hedgerow would require removal. The hedgerow is categorised as of low arboricultural value (category C). A group of trees in the south eastern corner would require removal together with a hedgerow and trees on the boundary with the retained field on Copperas Road. The Oak tree would be retained as would the existing hedgerow on part of the north eastern boundary.

The Flood Risk Assessment and Drainage Strategy states the site is within Flood Zone 1 with an annual probability of flooding from fluvial sources being less than 1 in 1000 years (ie < 0.1%). There is a public combined sewer, 900mm in diameter, flowing in a westerly direction across the southern area of the site. Surface water runoff would be managed in a sustainable manner to ensure that flood risk would not be increased downstream of the site. The golf course already includes a number of surface water drainage features including ditches/swales, ponds and a lake, all of which ultimately discharge to Darklands Brook. It is proposed that the existing surface water features within the golf course are utilised for surface water attenuation from the proposed development, rather than provide a separate system within the site boundary.

The Site Investigation Study and Coal Mining Risk Assessment concludes that based on the desk study research undertaken the site does not pose a significant risk to the environment and it is considered suitable for both its current and the proposed development uses. There are, however, a number of low and moderate potential pollution linkages and geotechnical risks that require further investigation and consideration prior to the redevelopment of the site. A detailed physical site investigation, comprising soil/water sampling, chemical testing and gas monitoring, so as to identify and mitigate contamination that may exist is required. This shall include assessment of the shallow mine situation beneath the site.

A Phase 1 Habitat Survey and Ecological Assessment was undertaken for the overall development proposals.

The Ecological Appraisal undertaken in November 2018 concludes that the main impacts include the southern extent of hedgerow 1 and area of plantation to facilitate site access, loss of dense scrub in the south east for housing, and loss of tall ruderal and grassland throughout the site for housing. However, Hedgerow 2 and Hedgerow 3 and other adjacent areas of plantation would be retained. Protected species were not found on site and do not represent a constraint to development.

Recommendations include that the trees to be lost are replaced by native species as part of the landscaping scheme and all retained trees and hedges should be protected from damage and from soil compaction during works by maintaining fenced Root Protection Areas (RPAs).

The Landscape and Visual Assessment sets the site in context with the surrounding landscape. Nationally the site is defined; as National Character Area 71: Leicestershire and South Derbyshire Coalfield<sup>5</sup>, regionally as Settled Coalfield Farmlands RLCT and locally as Coalfield Village Farmlands Landscape Character Type (LCT). Viewpoints are assessed and the report concludes that the scale and form of proposed development is likely to result in only limited harm at a localised level and potential landscape and visual effects are not likely to be significant. Furthermore the extensive proposals for green infrastructure and landscaping will deliver a number of enhancements in terms of the physical landscape and landscape character. As such the proposed development is acceptable in landscape and visual terms.

The Archaeological Desk Based Assessment states that Abandonment Plans obtained from the Coal Authority demonstrated that the site was excavated during opencast mining in the late 20th Century. No archaeological remains would survive in this region.

The Noise Report concludes that mitigation measures such as orientation of dwellings and thermal double glazing would ensure noise levels are within acceptable levels. This should be detailed at reserved matters stage.

The Transport Assessment states that development would be within walking distance of many employment destinations and local facilities in Newhall. The town centre would be within walking distance via the new footpaths that would be provided through the masterplan area. The National Cycle Network route 63 provides an excellent route to the north to Burton upon Trent and the gap in that route as it passes through Swadlincote would be plugged by the cycle infrastructure proposed by the development and that of the golf course and Sites B and C. A crossing would be provided on Park Road where the existing part of route 63 ends to link it to the proposed part that runs through the masterplan area. Additional cycle routes would be provided through the masterplan area to provide mostly off road journeys to the town centre and the many nearby employment destinations. The development would create a demand for an additional 4 pedestrian journeys and 1 cycle journeys during an average peak hour. The existing infrastructure, enhanced by the proposed provisions would adequately accommodate the increase in demand created by the proposed development. Bus service number 4 runs past the site on Park Road and provides two buses an hour in each direction, connecting the town centre to destinations beyond Swadlincote, notably Burton upon Trent. The proposed development would generate a demand for three additional bus journeys during an average peak hour. The development is therefore in a sustainable location that is accessible by all modes of transport.

The Air Quality Assessment states that a construction phase assessment has been undertaken to determine the risk and significance of dust effects from earthworks, construction and track-out from the proposed development. The report concludes

that dust and road traffic emissions can be adequately controlled through mitigation measures and at operation impacts would not be significant.

The Geophysical Survey Report concludes that the underlying geology across the area provided a reasonable magnetic contrast for the detection of infilled features. No evidence for significant archaeological features was present. The majority of anomalies detected could be attributed to a modern or recent origin.

The Bat Activity Survey Report confirmed that bats forage in specific locations on site associated with hedgerows and woodland edge habitats and also that no evidence was found of roosting bats. Recommendations to minimise the potential disturbance of bats and ensure landscape connectivity would be to retain and or incorporate hedgerows into the proposed scheme. Additionally, a sensitive lighting strategy should be implemented to reduce potential impacts on bat foraging behaviour.

## **Planning History**

None

## **Responses to Consultations**

The Highway Authority considers that available evidence suggests the development would not have a significant adverse effect on capacity or safety of the road network. Therefore subject to conditions there is no objection in principle to the proposed roundabout. The site contains part of a proposed greenway and improvements / enhancement to sustainable transport routes would be welcomed. There is no objection to the revised scheme as it is not considered that the inclusion in the proposal of an additional of eight dwellings over and above the 60 previously considered would have any significant impact on highway conditions. Conditions in respect of submission of a construction management plan, temporary access details, vehicle wheel washing, internal layout design, details of the new roundabout, new estate streets, parking and manoeuvring, bins stores, pedestrian indivisibility, parking levels, access gradients, highway surface water details and management and maintenance of streets.

Severn Trent Water has no objection subject to a drainage scheme condition and an informative in relation to the public sewer that crosses the site.

The Local Lead Flood Authority states that the development site would be drained at the greenfield runoff rate of the positively drained area of the development. The discharge would exit the site via an existing ditch and then be diverted along a new swale to an attenuation pond outside of the site boundary. The attenuation volume will be sized to cater for the 1 in 100 year storm event plus climate change. The pond will be either:

- Option 1 - a new dedicated pond, which will discharge into an existing lake at the discharge rate for Parcel A.
- Option 2 – an existing pond, which will discharge into an existing watercourse at the discharge rate for the Parcel A plus the greenfield runoff rate of the existing catchment area of the pond, which is yet to be established.

Conditions in respect of submission of a management and maintenance plan of the surface water drainage, detailed assessment to demonstrate that the proposed destination for surface water accords with the drainage hierarchy and details indicating how additional surface water run-off from the site would be avoided during the construction phase.

The Council's Contaminated Land Officer confirms the site has a low risk of contamination.

The Council's Open Space and Facilities Manager states that the on-site public open spaces appears adequate.

The Council's Environmental Health Officer has no objection provided a dust control condition is attached to any permission together with an informative.

Natural England has no objection as the site is unlikely to affect any statutory protected sites or landscapes.

The Environment Agency has no comments.

The Coal Authority states that their records indicate that the site is in the likely zone of influence from 6 seams at 33m to 251m depth, last worked in 1962 and is in an area of likely historic unrecorded underground coal mine workings at shallow depth. The site is also within the boundary of a site from which coal has been removed by surface mining methods. The Authority has no objection provided a condition requiring intrusive site investigation works.

The County Archaeologist has reviewed the geophysics results that show a small number of possible archaeological features, all linear in character. In order to characterise and understand the significance of these features some further work is necessary. Therefore an archaeological works condition should be placed on any permission. This work will comprise a small number of trial trenches (with provision for further mitigation should significant remains be identified).

The Council's Strategic Housing Manager requires two affordable bungalows on site due to the increase in dwellings. Affordable Housing was considered on all three sites together and the previous scheme had no affordable housing as its provision was secured on Site B and C.

Derbyshire County Council's Developer Contributions Officer states that the proposed development falls within and directly relates to the normal area of Stanton Primary School. The proposed development of 68 dwellings would generate the need to provide for an additional 14 primary pupils. Stanton Primary School has a net capacity for 105 pupils, with 105 pupils currently on roll. The number of pupils on roll is projected to increase during the next five years to 116. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would not have sufficient capacity. Therefore, a contribution of £226,626.96 for the provision of 14 primary places at Stanton Primary School towards Project A: Additional Teaching Accommodation is required. At the secondary level, the proposed development falls

within and directly relates to the normal area of The William Allitt School. The proposed development of 68 dwellings would generate the need to provide for an additional 10 secondary pupils. The William Allitt School has a net capacity for 945 pupils with 764 pupils currently on roll. The number of pupils on roll is projected to decrease to 731 during the next five years and as such the secondary school would have sufficient capacity to accommodate the 10 secondary pupils arising from the proposed development.

The County Rights of Way Section has no objection to the application as there are no recorded public rights of way crossing the site.

The Police Crime Prevention Design Advisor had general comments that should be considered prior to a reserved matters application being submitted which relate to natural surveillance of open space, parking areas and security of routes and private garden areas. There are no concerns relating to the recent revisions.

Peak and Northern Footpaths state that considerable thought has been given to walking and cycling routes throughout the whole site and this is welcomed. All new footpath links should be dedicated as public rights of way by means of formal legal agreements, with the widths, surfaces and path furniture agreed with the highway authority. All new cycle links should also be formally legally dedicated, and must be sufficiently wide to allow for segregation of walkers and cyclists. There should be sufficient links from the housing sites to the new and old public rights of way to enable residents to reach and use these paths safely and conveniently. There were no additional comments on the 2018 revisions.

The Council's Tree Officer considers the Arboricultural Assessment to be acceptable and recommends a condition in relation to new tree planting.

Derbyshire Wildlife Trust considers the Ecological Appraisal (Nov 2018) is sufficient to assess ecological impacts. They note that hedgerow 2, whilst being retained, would be incorporated into the curtilages of new properties which has impacts in terms of its integrity and future management. On this basis, adequate new planting should be secured through the landscaping scheme as compensation. All retained trees and hedgerows should be protected from damage during construction. Conditions in respect of removal of hedgerows and submission of a Landscape and Ecological Management Plan (LEMP) are recommended.

## **Responses to Publicity**

Seven letters of objection were received in 2015 and they are summarised as follows:

- a) The Swadlincote Rifle and Pistol Club are based on a site opposite and are concerned that any new residents may complain about noise and put an end to their club which has 560 members.
- b) There is concern with regard to the access onto Park Road as it is near a hidden dip in the road, the speed limit is regularly ignored and the large amount of vehicles associated with the dwellings is likely to cause accidents.

- c) There are concerns relating to no provision for schooling in the area, where local schools are already at capacity.
- d) There have been recent road accidents where the access is proposed and planning permission has been denied due to the dangerous nature of the road.
- e) The sewerage system is at capacity as in heavy rain Park Road properties have been flooded with raw sewerage.
- f) Lack of capacity at local doctors surgeries which will be exacerbated with these houses.
- g) Lack of privacy and security of their rear private garden.
- h) There is concern regarding where would the services come from and whether existing residents' services would be affected.
- i) Loss of wildlife as adders and Kingfishers have been spotted in the field.
- j) There are mine shafts in the area and natural springs that have been redirected and have started to fill up the old mining tunnels which should make building unsafe.
- k) Requires guarantees that there would be no subsidence to their property as a result of building work.
- l) The golf course construction work has produced smells and dust and prevented use of their garden.
- m) There is a lack of facilities for children.
- n) The existing access to Woodview Road is dangerous with minimal visibility in both directions, how can a new access onto Park Road be acceptable?
- o) Planning applications on Woodview Road have been refused on traffic safety grounds and they were not in keeping with the look of the area and green belt issues.
- p) The land is on top of previous mine workings and is a flood zone.
- q) The location of the park so close to existing residents would cause noise and nuisance.
- r) A tree screen was promised, however, trees too close to properties may cause damage and loss of light.
- s) New residents on Woodview Road would be directly overlooked, would lose their privacy and view of the fields and golf course.

One letter of support has been received which supports the redevelopment of the former colliery and the provision of green space within the development, but is unsure whether the site is considered brownfield or greenfield.

No representations have been received in response to the re-consultation on the amended site area and the increase of 8 dwellings.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H2 (Land north of William Nadin Way), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1

(Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

- 2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development) BNE7 (Trees, Woodland and Hedgerows).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Developer Contributions,

## **Planning Considerations**

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

- Principle of Development
- Layout and Landscaping
- Highways and Transport
- Residential Amenity
- Viability and S106 agreement
- Affordable Housing
- Other Matters

## **Planning Assessment**

### Principle of Development

The site is within the settlement confines of the Swadlincote Urban Area identified in LP2 Policy SDT1 and is part of a strategic allocation in the LP1 Policy H2 allowing for up to 600 dwellings. The site is the smallest of three sites surrounding the Golf Course for 68 dwellings known as Site A. Residential development is therefore acceptable in principle. Members were minded to approve the outline permission for 60 dwellings in June 2015 with a new roundabout proposed on Park Road, Newhall. The amendments involve further land to the north, an additional 8 dwellings and an amended illustrative layout.

The specific policy for this allocation Policy H2 requires:

- i. Consider the site holistically with other development and open space enhancement opportunities;*
- ii. A mix of dwelling types shall be provided across the three parcels of land which complement each other;*
- iii. The provision of recreational and community facilities;*

- iv. *The presence of Coal Mining Legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;*
- v. *An appropriate buffer in agreement with the Council to be placed around the Breach Ley Farm Meadow County Wildlife Site;*
- vi. *An appropriate easement along watercourses on the site free of built development;*
- vii. *Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route.*
- viii. *Developer Contributions to be made towards the provision of a new Household Waste Recycling Centre in the Swadlincote area.*

### Layout and Landscape

The indicative layout shows that the principles of the Design Guide and LP1 Policy BNE1 have been followed in terms of landmark buildings in prominent locations and with the use of landscaping to soften the boundaries along Park Road as it provides a transition to open land and on the boundary with the golf course to the south. Feature squares have been included in key locations around the development to aid legibility and the entrance to the site framed by landscaping and buildings addressing the roundabout.

The site is within walking distance of local services, facilities and employment with pedestrian and cycle routes improved as part of the proposal to link the site with the wider area, the golf course and sites B and C. This corresponds with the requirements of policy H2, especially as it would link to NCN 63 to the south west.

Overall the layout shows dwellings that are in character and scale with the existing dense pattern of development to the north.

LLP1 Policy BNE4 requires developments to protect and enhance the character, local distinctiveness and landscape quality and retain key landscape components. The site is bounded by existing residential properties to the north east which have existing vegetation retained. Existing hedging bounds the site along Park Road and Woodview Road, the majority of which would be retained. The site slopes down from the north with a difference in land levels of 9.7m across the site from north to south east.

Overall, the proposal is considered acceptable with a layout that is capable of providing new landscape features to enhance the streetscene of the development and that would complement the existing character, in accordance with Policy BNE4.

### Highways and Transport

The Highway Authority considers that the proposal would not have a significant adverse effect on capacity or safety of the local road network. It considers that there is no data that would support a reason for refusal of planning permission on the basis of unacceptable impact on highway safety or the residual cumulative impacts on the road network being severe, with reference to Paragraph 109 of the National

Planning Policy Framework. The roundabout design is considered acceptable and adequate parking and internal road layouts would be secured through the reserved matters applications. As such the development would be in conformity with LP1 Policy INF2.

The proposed cycle and footpath links to the wider area are shown on the illustrative masterplan and can be secured as the applicant owns the land to the south. The cycle way along Park Road within the application site shall be secured by condition.

### Residential Amenity

In terms of residential amenity, the impact on existing properties on Woodview Road and Copperas Road requires assessment. The indicative layout shows single storey dwellings adjacent to the boundary with existing properties on Copperas Road which are both also single storey with a 5m landscaping buffer on the boundary. The nearest proposed property would be 12 metres away, which provided this was a blank elevation would meet the requirements of the Design Guide.

In terms of existing properties on Woodview Road, the nearest dwellings are the two relatively new detached properties (No's 4 and 6). No.4 is 4 to 6 metres from the boundary of the site. Due to the orientation of the existing properties the new dwellings shown would not encroach on the 45 degree sector of view with the minimum distance guidelines being achievable. Existing terraced properties have rear elevations 21 m from the site's boundary. Existing hedging to the south of the properties would be retained.

Detailed assessment of impacts in terms of heights, designs and finished floor levels would be carried out at reserved matters stage to ensure residential amenity of existing properties was not adversely affected. The indicative layout demonstrates that the Design Guide distance guidelines could be achieved, in accordance with policies BNE1 and SD1.

### Viability and Section 106 agreement

As the applicants have set out above, although the scheme is technically not viable given the ransom payment it made to the County Council, it considers that it would not wish to challenge the request for further affordable homes given the delay that would ensue. It adds that the site would nevertheless be deliverable.

The LEA reports that the proposed development of 68 dwellings would generate the need to provide for an additional 14 primary pupils. Therefore, a contribution of £226,626.96 for the provision of 14 primary places at Stanton Primary School towards Project A: Additional Teaching Accommodation is required. There is sufficient capacity at William Allitt for the demand generated by the development.

The provision of Affordable Housing is linked to Site B and Site C with a percentage split negotiated between them. On 'Site B', 31% provision (41 dwellings) and 'Site C' provision of 16.5% equating to 66 dwellings has been secured. Due to the level required for 60 dwellings being relatively low on this site (5% or 3 dwellings), it was considered that the largest sites would include the provision. These percentages

were evidenced through viability reports scrutinised by the District Valuer. However, as a further 8 dwellings are now proposed an additional provision of two affordable bungalows is required.

The calculation of the amount of open space provision on site has been made based on the Council's guidelines and 4,318m<sup>2</sup> would normally be required for 68 dwellings. The indicative layout shows 1,440m<sup>2</sup> which includes a LEAP of 400m<sup>2</sup>. On the basis that this site is adjacent to the Golf Course with proposed routes linking it to the Country Park and Urban Park on Site C, the on-site provision is considered adequate and off-site contributions would be secured as follows: based on normal requirements, contributions would amount to £41,820 for recreation Open Space (excluding land cost), £37,400 for recreation Outdoor Facilities and £20,740 for Recreation Built Facilities; a total of £99,960. The previous viability contribution was £98,160 and with the extra land includes an increase of £1,800.

NHS England has not made any request for S106 contributions for services in relation to this application. This is the same situation as when this case was last reported. Given the development of the site is already in deficit, no further S106 requests have been pursued.

#### Other issues

Mining legacy issues have been addressed in the submitted Coal Mining Risk Assessment and conditions requiring site investigation would secure any necessary remediation in accordance with paragraph 178 of the NPPF.

Ecological interests would be adequately safeguarded by condition, as recommended by Derbyshire Wildlife Trust in accordance with paragraph 175 of the NPPF and LP1 Policy BNE3.

#### Conclusion

The proposal is part of the wider allocation of 600 dwellings within the urban area of Swadlincote, a highly sustainable location that would contribute to the district's supply of housing. The proposal would introduce a roundabout on Park Road and includes cycle links along this road to link with the National network together with links to the existing footpaths, the wider area, golf course, country park and sites B and C. The indicative layout complies with the principles of the Design Guide and LP1 Policy BNE1 where a high standard of design with minimum impact on the amenity of existing residential properties could be achieved at the detailed design stage.

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 delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report;

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

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

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

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. Prior to commencement of the development details indicating how additional surface water run-off from the site shall be avoided during the construction phase shall be submitted and approved in writing by the Local Planning Authority. Collection, balancing and/or settlement systems for these flows may be required. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works for construction of any dwelling, which would lead to increased surface water run-off from site during the construction phase.

Reason: To prevent the increased risk of flooding, both on and off site.

4. Prior to the construction of any dwelling a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Park Road, Land At William Nadin Way, Swadlincote Flood Risk Assessment, FRA-001-Parcel A, Wardell Armstrong (September 2014), including any subsequent amendments or updates to those documents, or any further relevant documentation submitted in support of the Flood Risk Assessment/Drainage Strategy detailed above, as approved by the Flood Risk Management Team,

b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design, prior to the occupation of any of the dwellings.

Reason: To prevent the increased risk of flooding, both on and off site.

5. Prior to the construction of any dwelling a detailed assessment shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 of the planning practice guidance and implemented in accordance with the approved details prior to the occupation of any dwellings.

Reason: To prevent the increased risk of flooding, both on and off site.

6. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

parking of vehicles of site operatives and visitors

routes for construction traffic

hours of operation

pedestrian and cyclist protection

proposed temporary traffic restrictions

arrangements for turning vehicles

Reason: In the interests of highway safety.

7. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: It must be ensured that before any construction work commences that a safe construction access is formed in the interests of highway safety. As such, approval at a later date would be unenforceable.

8. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

9. The reserved matters application shall include design of the internal layout of the site in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government.

Reason: In the interests of highway safety.

10. Prior to the first occupation of any dwelling on the site a new roundabout shall be constructed and footway/cycleway and pedestrian refuge implemented on Park Road generally in accordance with Drawing No. ADC1041/006 H but more specifically in accordance with detailed designs first submitted to and

approved in writing by the Local Planning Authority. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

11. Prior to the occupation of each dwelling, the proposed new estate streets between that dwelling and the existing public highway shall be laid out in accordance with the scheme approved in accordance with Condition 7 above, or as subsequently revised and approved in writing by the Local Planning Authority, constructed to base level, drained and lighted in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

12. No dwelling shall be occupied until space has been provided within the site for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, laid out in accordance with the scheme approved in accordance with Condition 9 above, or as subsequently revised and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

13. The scheme to be submitted to and approved in writing by the Local Planning Authority pursuant to Condition 7 above shall provide for bin stores within private land at the highway end of private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained free of any impediment to their designated use thereafter.

Reason: In the interests of highway safety.

14. Private driveways/parking spaces to the proposed access road, the subject of Condition 10 above, shall not be taken into use until pedestrian intervisibility splays, details of which shall be included in the reserved matters application(s), have been provided on either side of the accesses at the back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

15. Unless as may otherwise be approved pursuant to the reserved matters, prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms 3 cars, in the case of dwellings of two or three bedrooms 2 cars, and in in any other case 1.5 cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter 3 parking spaces (in the case of dwellings with four or more bedrooms) or 2 parking spaces (in the case of

dwellings of two or three bedrooms) or 1.5 parking spaces (in any other case), each space measuring a minimum of 2.4m x 5.5m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

16. Unless as otherwise agreed in writing with the Local Planning Authority the proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

17. Unless the local planning authority has previously agreed to an alternative timetable no development shall commence until a scheme for the disposal of highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: Approval of a scheme at a later stage would not be sufficient to regulate surface water runoff from the site from the commencement of the development therefore putting highway safety in jeopardy.

18. No dwellings 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 highway safety.

19. The landscaping details required pursuant to Condition 2 above shall accord with the Landscape Strategy set out in section 5 of the Design and Access Statement and the recommendations in Section 4 of the FPCR Ecological Appraisal Nov 2018.

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

20. 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.

21. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of development. The approved measures shall be implemented throughout the construction period.

Reason: A later period for compliance would see the construction period all or partly missed thus defeating the object. The condition is necessary to protect the amenities of nearby residents from the start.

22. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained. The scheme shall comply with BS 5837:2012. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
  - (ii) No material or plant shall be stored;
  - (iii) No buildings or temporary buildings shall be erected or stationed;
  - (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
  - (v) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.

Reason: A later period for compliance would risk damage to trees and hedgerows in the initial stages of construction which could jeopardise the appearance of the area and biodiversity.

23. Prior to commencement of development a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: Control is necessary to encompass the earliest construction phases in the interests of pollution control.

24. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation shall be undertaken prior to development of the affected part(s) of the site.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

25. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

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

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

26. Details of the finished floor levels of the buildings and of the ground levels of the site relative to adjoining land levels, shall be submitted with any reserved matters application. Thereafter, the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally. A later compliance point in time would be too late to achieve control of levels which are set out from initial site preparation.

27. Before development begins a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed / created.
  - 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 five-year period).
  - g) Details of the body or organization responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced from the start in accordance with paragraph 118 of the National Planning Policy Framework.

28. Before any works involving the construction of any dwelling commences, full details, including surface materials, of the cycleway along Park Road within the site shall be submitted to and approved in writing by the Local Planning Authority. The cycleway shall be provided as approved prior to the first occupation of the development and shall thereafter be retained for that purpose.

Reason: In the interests of sustainable development.

#### Informatives:

1. a) The Highway Authority recommends that the first 5m of the proposed access driveways 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.
- b) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/new estate street, 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.
- c) 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 Environmental Services Department at County Hall, Matlock.
- d) Car parking provision should be made on the basis of 1.5no., 2no. or 3no. parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 5m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.
- e) Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up,

resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.

f) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Department of Economy Transport and Environment at County Hall, Matlock DE4 3AG. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

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

3. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

4. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal

requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

5. The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Authority is satisfied that the development will not give rise to significant environmental effects.

6. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source -
- pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

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

7. The application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July

inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

8. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

NB. We have clean water apparatus within the proposed application site, the developer will need to contact Severn Trent Water Developer Services Team as detailed below to assess their proposed plans for diversion requirements. To request a water map please follow the link, <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> select "Water and / or Sewer map request form" fill out the relevant details and fee payment and return to:

Severn Trent Water, Asset Data Management,  
GISmapping Team, PO Box 5344, Coventry, CV3 9FT  
Fax: 02477 715862  
e-mail: [GISmapping@severntrent.co.uk](mailto:GISmapping@severntrent.co.uk)

Any correspondence and diversion applications are to be submitted through Developer Services, the relevant form can be found on the Severn Trent website at <https://www.stwater.co.uk/building-and-developing/other-developments/diversions/> Please click on download water diversion application form and complete the form as fully as possible.

Information on diversion application charges can be found <https://www.stwater.co.uk/building-and-developing/regulations-and-forms/application-forms-and-guidance> in ""Our Charges"" - Developer Charges 2015-2016 in Section 5.

9. A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

G. Flood resilience should be duly considered in the design of the new building/s or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

H. Surface water drainage plans should include the following:

Rainwater pipes, gullies and drainage channels including cover levels.  
Inspection chambers, manholes and silt traps including cover and invert levels.

Pipe sizes, pipe materials, gradients and flow directions and pipe numbers.

Soakaways, including size and material.

Typical inspection chamber / soakaway / silt trap and SW attenuation details.

Site ground levels and finished floor levels.

I. On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to 1 in 100 year return period (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas etc, to

demonstrate how the 100 year + 30% Climate Change rainfall volumes will be controlled and accommodated. A sensitivity test to 40% Climate change, along with incorporating 10% impermeable area for urban creep should be carried out (refer to BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of 1 in 100 year rainfall, to ensure exceedance routes can be safely managed

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales etc)

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100yr rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

Where reasonably practicable, for greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must not exceed the greenfield runoff

volume for the same event

Where reasonably practicable, for developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network whatever size of the site and

type of drainage system. Significant green areas such as recreation parks, general public open space etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

J. If infiltration systems are to be used for surface water disposal, the following information must be provided:

Ground percolation tests to BRE 365.

Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.

Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003

Volume design calculations to 1 in 100 year rainfall + 30% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 iV Table 25.2.

Location plans indicating position (Soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.

Drawing details including sizes and material.

Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

K. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable)

L. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

10. Further to Condition 23 you are advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management for advice on how such an assessment should be performed.

11. Further to Condition 27 advice on the production of the WSI can be obtained from the County Council's Development Control Archaeologist Steve.Baker@derbyshire.gov.uk Tel 01629 539773

12. The reserved matters application should be based on the indicative layout in respect of the design concepts, linkages, buffers and public open space as they have been negotiated.

Item 1.2

Ref. No. 9/2018/0938/U

**Applicant:**  
**Mr John White**  
**Overseal Parish Council**  
**19 Pennine Way**  
**Ashby De La Zouch**  
**LE65 1EW**

**Agent:**  
**Mr John White**  
**Overseal Parish Council**  
**19 Pennine Way**  
**Ashby De La Zouch**  
**LE65 1EW**

**Proposal: CHANGE OF USE FROM SPORTS PAVILION/LEISURE FACILITY (USE CLASS D2) TO A MIX OF A NURSERY /CRECHE WITH SPORTS AND LEISURE FACILITIES (USE CLASS D1 AND D2) AT THE PAVILLION WOODVILLE ROAD OVERSEAL SWADLINCOTE**

**Ward: Seales**

**Valid Date 14/09/2018**

**Reason for committee determination**

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

**Site Description**

The application site is located within the settlement boundary of Overseal, as defined by the Local Plan. The site comprises a sports pavilion with associated outbuildings including toilets and changing rooms, a bowling green located directly to the south of the buildings and a car park to the east, which provides parking for approx. 50 vehicles.

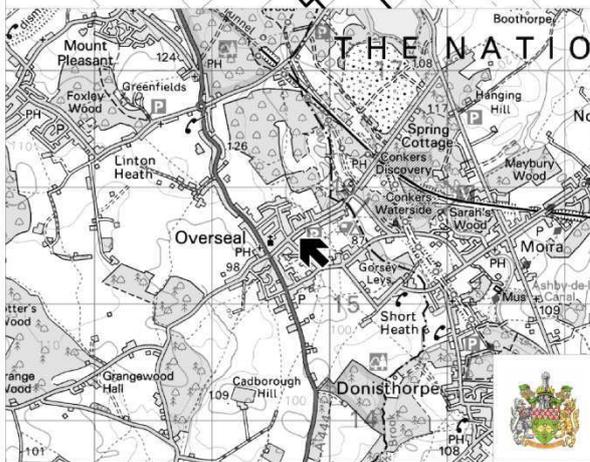
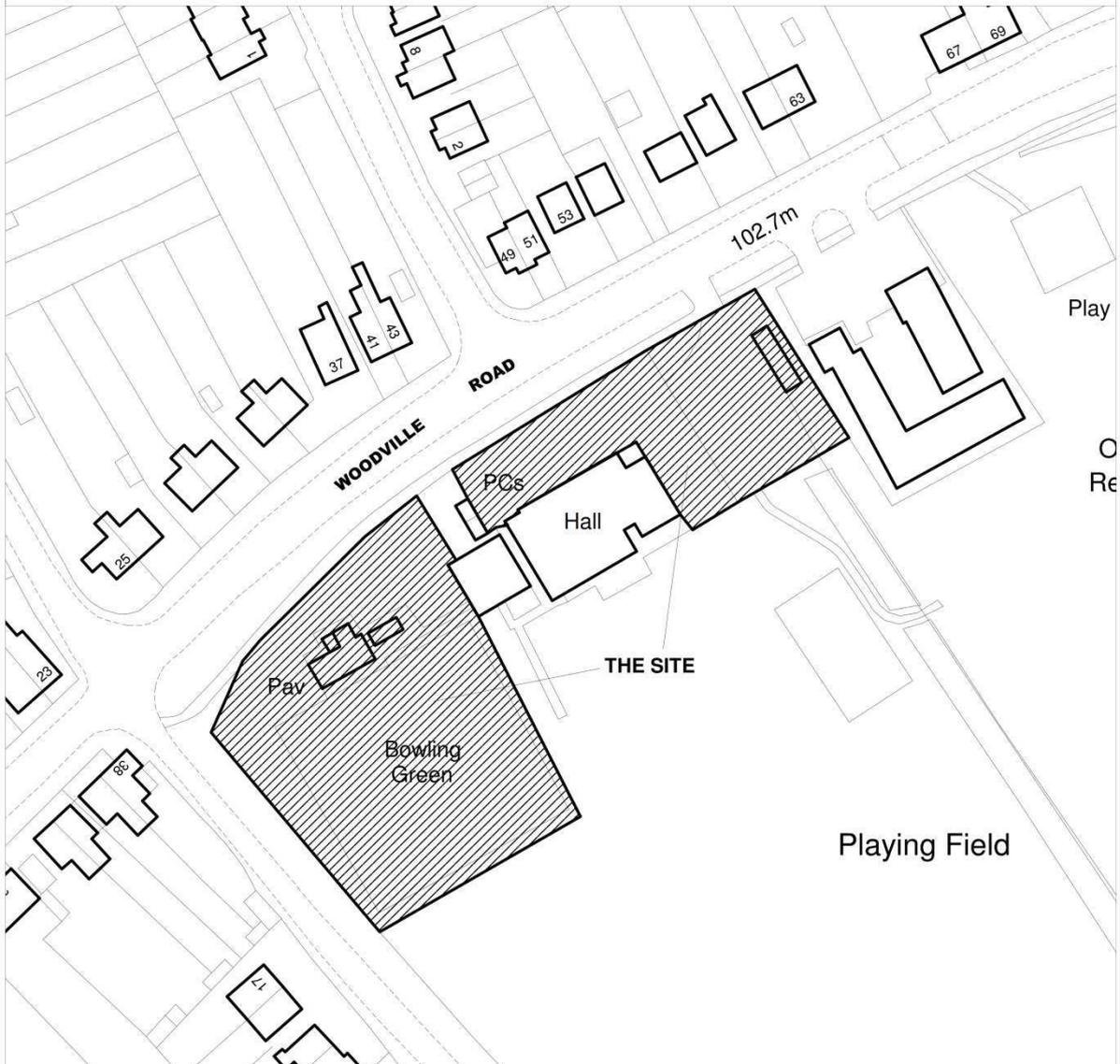
**Proposal**

The application is to change the use of the building from a sports pavilion/leisure facility (Class D2) to a mix of a nursery/crèche and the existing sports/leisure use (Class D1 and D2). The proposed nursery/crèche is for before and after school time and for a maximum of 12 children at a time; the new use will work alongside the existing use of the building. No alterations to the building are proposed.

**Applicant's supporting information**

In addition to the application form and location plan a supporting statement was submitted further detailing the proposed use of the building, with information on the

9/2018/0938 - Pavillion, Woodville Road, Overseal, Swadlincote DE12 6LU



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proposed working hours and staffing, as well as the impact on the existing use of the building.

### **Planning History**

- 9/2000/0333 The erection of a changing pavilion, a floodlit (8metre high columns) multi use games area together with associated car parking – Approved June 2000
- 9/2000/0824 The relaxation of condition 8 (restriction on hours of use) of planning permission 9/2000/0333/F – Approved November 2000
- 9/1997/0190 The erection of a single storey extension on the north western flank of the pavilion and the enlargement of the car park serving the village hall – Approved July 1997
- 9/1996/0757 The erection of a single storey extension on the north western flank of the pavilion – Approved April 1996

### **Responses to Consultations**

The County Highway Authority requested further information as to how the proposed nursery would operate, including information on staff and child numbers, hours of operation and its interaction with the facility; in addition the proposed parking as stated on the application form was outside of the red line of the location plan. The requested further information and an amended location plan were received by the applicant and as such no objections were made in regards to highway safety. This was subject to a condition being attached to any grant of permission that would ensure the existing parking area being maintained throughout the life of the development free from any impediment to its designated use.

The Environmental Health Officer (EHO) has no objection subject to an advisory highlighting that the applicant will need to register as a food business a minimum of 28 days before the business opens.

### **Responses to Publicity**

One letter of support has been received.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), Policy H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), INF2 (Sustainable Transport) and INF6 (Community Facilities).
- 2017 Local Plan Part 2: (SDT1) Settlement Boundaries and Development) and RTL1 (Retail Hierarchy).

## **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;
- Neighbouring Amenity and;
- Highway Safety.

## **Planning Assessment**

### Principle of Development

The sports pavilion, located within the settlement boundary of Overseal, is currently used for sports/leisure purposes only. The existing use is to be retained and is to work alongside the proposed nursery/crèche, as they will operate at different times of the day. The applicant has stated that the bowls club that previously used the site has now folded, with the building only currently being used by a yoga club. The proposed nursery/crèche is proposed for a maximum of 12 children at one time. It is therefore considered that the proposed change of use would be a sustainable business location for a currently under used community building and therefore is supported by Policy S2.

### Neighbouring Amenity

The applicant proposes that the nursery/crèche will be used before and after school time, operating Monday-Thursday 0730 – 0845 and 1530 – 1800, 15 hours per week for 39 weeks per year (i.e. during term time only). The proposed number of children being supervised is a maximum of 12 at one time. There are no external alterations proposed as part of the application. It is considered that the proposed business hours and subsequent noise/traffic generated as a result of the change of use would not unduly impact on the amenity of neighbouring properties that surround the site, it is also noted that Environmental Health raised no objections and as such the proposed use is considered to comply with Policy SD1.

### Highway Safety

Included within the application site is parking suitable for approx. 50 vehicles, and although also used by the adjacent village hall, it is considered to be adequate parking for the proposed nursery/crèche. It is noted that the County Highway

Authority has no objection to the proposal in regards to highway safety and as such it is considered that the proposal complies with Policy 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 permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the Location Plan, received on 22 November 2018 and Supporting Statement received on 23 November 2018, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as a Nursery/Crèche (Use Class D2) and as a Sports/Leisure Facility (Use Class D1) as described in the application documents and for no other purpose.  
Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.
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, the existing car parking spaces shall be maintained throughout the life of the development free of any impediment to its designated use.  
Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

### Informatives:

1. The developer should contact the Environmental Health Section on all matters relating to food hygiene and health and safety. Food businesses must also register with the Local Authority at least 28 days prior to opening for business.

**Item**            **1.3**

**Ref. No.**        **9/2018/1126/FH**

**Applicant:**  
**Mr & Mrs Hastings**  
**60 Bretby Lane**  
**Bretby**  
**Burton On Trent**  
**DE15 0QW**

**Agent:**  
**Seb Design**  
**24 Springfield Avenue**  
**Loscoe**  
**Heanor**  
**Derby**  
**DE75 7LN**

**Proposal:**    **THE ERECTION OF AN EXTENSION AND  
ALTERATIONS(INCLUDING A NEW FRONT BOUNDARY WALL) AT  
60 BRETBY LANE BRETBY BURTON ON TRENT**

**Ward:**            **Repton**

**Valid Date**    **12/10/2018**

**Reason for committee determination**

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

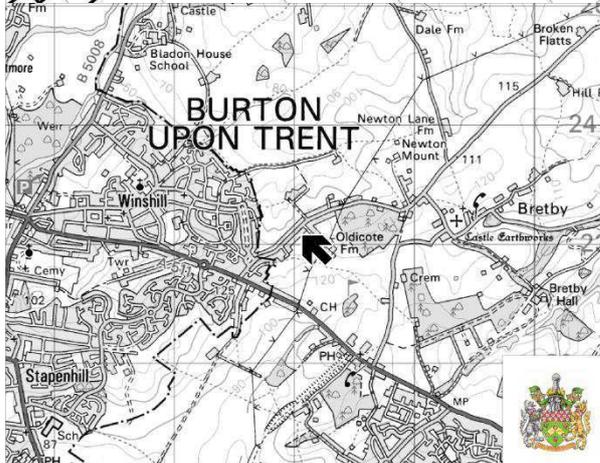
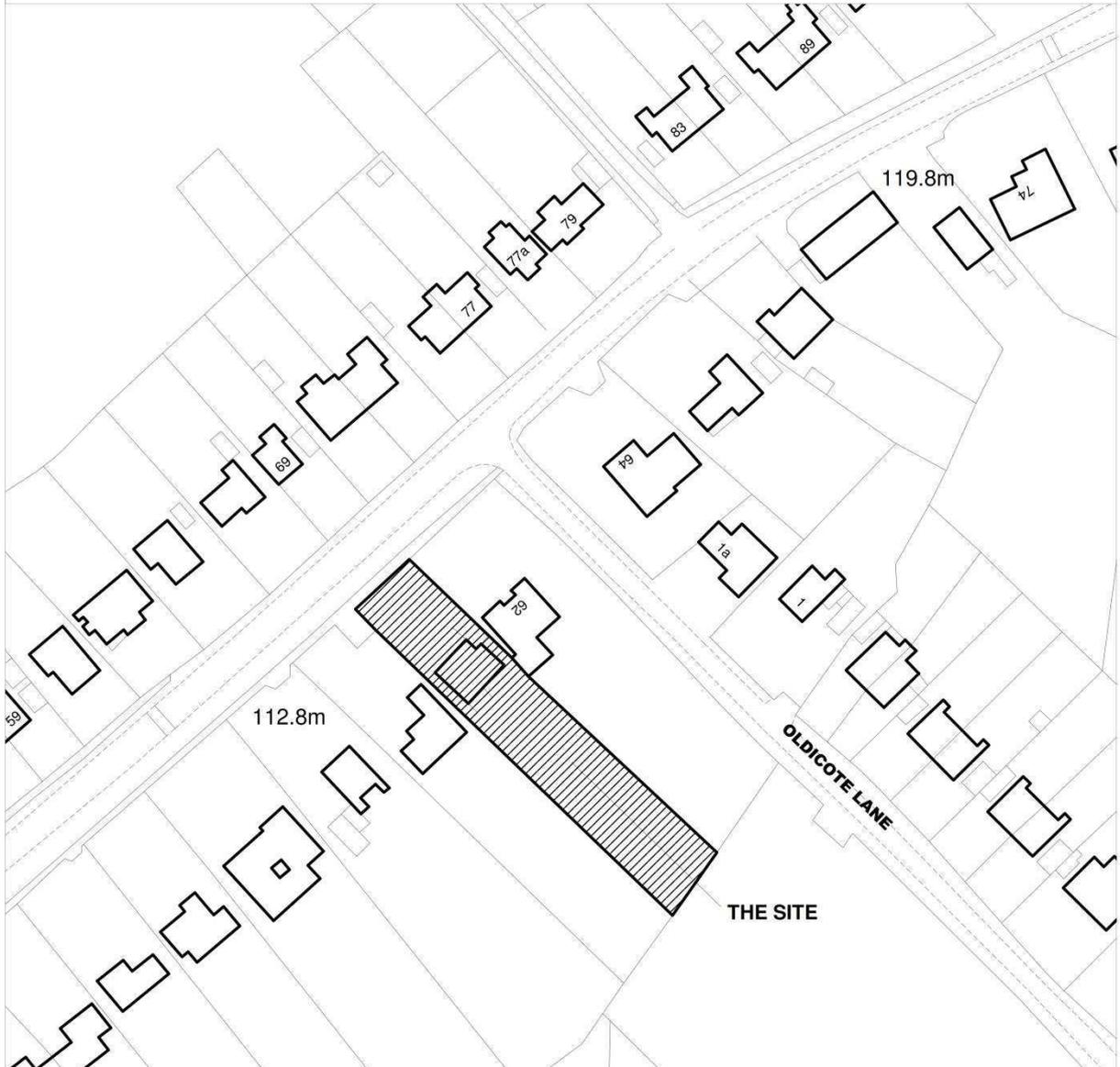
**Site Description**

The property is presently a bungalow, set between two good sized detached two storey properties. All are set a consistent distance back from the road, with their frontages mainly laid out for parking. The front boundaries are however vegetative (tall hedging) although they are a bit more mixed (fencing/walls enclosing etc.) further down in the lane.

**Proposal**

The proposal is to extend over the current footprint of the property to create a first floor, this new form then predominantly rendered. Plans also show a change to the front boundary, the latest plans showing a 1.2m high wall and gates in place of the low stone wall and hedge. In dialogue with the applicant, the hedge here then could be retained and supplement the wall, adding the security/privacy value the hedge offers at present.

9/2018/1126 - 60 Bretby Lane, Bretby, Burton on Trent DE15 0QW



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## **Applicant's supporting information**

None.

## **Planning History**

Some pre application advice was sought from the authority (PRE1043) simply seeking a view on the principle of the addition of a first floor here – i.e. no plans were submitted. No advice was sought on the change to the front boundary however.

## **Responses to Consultations**

None.

## **Responses to Publicity**

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

- a) The proposal will block light into our lounge and bedroom;
- b) The property was built as a bungalow back in the 1950's and should remain as such;
- c) The property has already had an extension which goes beyond the rear of our house, this was granted because it was a bungalow

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: SD1 (Amenity & Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character & Local Distinctiveness), INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: H27 (Residential Extensions and other Householder Development)

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide Supplementary Planning Document (SPD) 2017

## **Planning Considerations**

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

- The impact of the development on the character of the area; and
- The impact of the development on the amenity of adjacent occupiers.

## Planning Assessment

### The impact of the development on the character of the area

Bretby Lane is an attractive area, the houses here a mix in regards their style, scale and finish. The design offered here therefore cannot be found to be out of character given the variances in the street, its form reflecting design keys of those adjacent/nearby: similar gable widths, roof pitches and other characteristics (bay windows etc.)

The proposed wall to the front boundary has been reduced in height from that first shown and is more reflective of the street where low walls (of a permitted height or thereabouts) can be found. With this smaller wall the hedge behind could be retained but it is not essential.

### The impact of the development on the amenity of adjacent occupiers

A neighbour has expressed concern over the loss of light to his closest windows (both ground and first floor) and there is understandable given the change in scale proposed.

The Council's Design Guide SPD however offers clear guidance in that respect: *'..in order to protect windows in neighbouring dwellings from overshadowing, proposed two-storey extensions should not breach the minimum distance along a 45 degree line drawn from the centre of the nearest ground floor 'primary' window of the neighbouring property'*. In that respect, the new mass does not breach that 'protected splay', the closest rear facing window being the conservatory at No 62; its main gaze (that over its own garden) not unduly affected by the proposed extension. Given the orientation of context, any loss of light would be limited to the late evening(s). It should also be noted the site under consideration does sit lower than No62, is separated by a 2m high boundary wall (as measured from No62's perspective) and that the build is set in from the boundary, so the intervening wall does have some softening quality, the conservatory having an open/undeveloped aspect elsewhere. The objector mentions loss of light to his lounge and first floor window (bedroom). Any meaningful light to the lounge however is already being filtered by the conservatory, its polycarbonate roof certainly not aiding light levels or view into the lounge currently; whilst the bedroom window at first floor is not one that standards set out in the SPD would explicitly look to protect. This is particularly the case when there would be only peripheral view of the new mass from the bedroom which would still enjoy a predominantly open aspect elsewhere. Other than the conservatory, the side flank of 62 is devoid of windows and No 58 only has small/secondary windows on its closest flank. As such obscure glazing by condition protects views afforded by any new first floor side facing windows.

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 number 1018/1630 - 1, Revision A, received on 7th 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. All external materials used in the development to which this permission relates shall be as specified in the submitted application forms/plans unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

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; prior to the first occupation of the extension hereby permitted, the window serving the stairwell (south-west elevation) and all first floor ensuite and bathroom windows shall be glazed in obscure glass and maintained as such for the life of the development.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

5. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling. Thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), three parking spaces, each space measuring a minimum of 2.4m (3m wide where abutting a wall or fence) by 5m (6m where enclosed as a garage), shall be retained for that purpose within the curtilage of the site.

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

Informatives:

1. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future,

particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: [www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries). Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com). If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

**Item**            **1.4**

**Ref. No.**        **9/2018/1312/TP**

**Applicant:**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**Mr Martin P Buckley**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Proposal:**    **THE FELLING OF A LIME TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 195 AT 36 GEORGE STREET CHURCH GRESLEY SWADLINCOTE**

**Ward:**         **Church Gresley**

**Valid Date**   **29/11/2018**

**Reason for committee determination**

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

**Site Description**

The tree stands at the front of the property in the front garden area. It forms part of a tree lined streetscene predominantly made up of trees of similar size and species.

**Proposal**

The proposal is to fell the tree.

**Applicant's supporting information**

The Council's Tree Officer has advised that the tree is in decline and will become brittle/hazardous.

**Planning History**

The tree has been protected, one of 15 (mostly roadside limes) since 2002.

**Responses to Consultations**

9/2018/1312 - 36 George Street, Church Gresley, Swadlincote DE11 9NY



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None.

Responses to Publicity

One letter supporting the tree's removal has been received. The letter mentions the tree has been a 'nightmare' it's pollen and tree sap causing liveability issues.

### **Development Plan Policies**

The relevant policies are:

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

### **National Guidance**

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

### **Planning Considerations**

The main issue central to the determination of this application is whether the proposed work warranted given the tree's protected status.

### **Planning Assessment**

The tree has suffered damage to its lower bole, the tenants' dog having ripped off a detrimental amount of the tree's protective layers (outer bark and cambian layer).

This damage has compromised the long term safe retention of the tree the extent to which it will not recover.

There are trees of similar impressive stature in the locality which should ensure the character of the area is not dramatically altered in the short term. A 'heavy standard' replacement would ensure that character is continued for the next generation(s), the area seemingly devoid of new planting at present. A young tree therefore would provide some renewed visual interest.

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

### **Recommendation**

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

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

Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

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

Reason: To ensure good practice.

3. A replacement tree shall be planted in the first available planting season after the works have been carried out, of a species, size and maturity and in a location, details of which shall have first been submitted to and approved in writing by the Local Planning Authority. Should that tree become diseased, be removed or die within 5 years of planting an equivalent tree shall be planted and retained for at least the same period.

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

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

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>	<b>Page</b>
9/2017/0964	Milton	Repton	Dismissed	Delegated	47
9/2017/1399	Woodville	Woodville	Dismissed	Committee	49



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## Appeal Decision

Site visit made on 30 October 2018

by **D Child BA BPL MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 December 2018

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**Appeal Ref: APP/F1040/D/18/3197263**  
**59 Main Street, Milton, Derby DE65 6EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs M and R Cheeseman against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0964, dated 5 September 2017, was refused by notice dated 15 December 2017.
  - The development proposed is a replacement outbuilding.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether or not the proposal would preserve or enhance the character and appearance of Milton Conservation Area.

### Reasons

3. No 59 Main Street (No 59) is a detached brick-built dwelling on Main Street. The existing outbuilding is located within the plot, sited at the lower end of the garden physically divorced from the dwelling by some considerable distance. Of modest scale, the existing outbuilding is architecturally very simple.
4. The degree of separation from No 59 is reflective of its subordinate relationship with the host dwelling. Its modest scale, architectural simplicity and physical relationship with the host dwelling make a positive contribution to the character and appearance of the Conservation Area. The replacement outbuilding would be rotated by 90 degrees and it would be shorter. However, it would have accommodation at first floor level accessed by an external staircase. As a result, it would be significantly taller and bulkier and the roof would have 7 rooflights. A Juliet balcony would face Main Street.
5. The significance of the Conservation Area lies, in part, in the linear settlement pattern with buildings spread out along Main Street and its leafy rural approach from the south. The ridge of the existing outbuilding runs parallel with Main Street. Due to its small scale, the eaves of the existing outbuilding are of a similar height to the adjacent high boundary wall. Because of this, the side walls of the existing structure do not project above the boundary walling and only the apex of the southern gable is visible in views up Main Street on approach from the south.

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<https://www.gov.uk/planning-inspectorate>

6. In contrast, due to the increased height of the replacement outbuilding its increased bulk would be visible on approach to the village. The appellant says they have followed pre-application advice from the Council to re-orientate the development. Nevertheless, the orientation of the development and introduction of rooflights would accentuate its increased height in views on approach to the village, especially during darkness when in use. Although the development would not be overbearing on the streetscene, the gable and Juliette balcony would be visible above the boundary wall in views from the country lane to the west. As a result, the development would disrupt the transition between the countryside and the village.
7. The proposed outbuilding would remain lower than the host dwelling due to the difference in land levels. The development would incorporate a traditional roof pitch and make use of materials appropriate to the Conservation Area. In some views, the development would have a backdrop of more substantial two-storey modern dwellings at the southern end of the village. Nevertheless, these considerations would not reduce the impact of the increased height of the development. Reference is made to buildings elsewhere in the village, which have Juliette balconies and external staircases and eaves of a similar height. However, none would appear to be located in a comparable context.
8. For the combination of the reasons above, I find that the development would be harmful to the rural character of the approach to the village. This would be detrimental to the significance of the Conservation Area, and would result in less than substantial harm as set out in Paragraph 193 of the revised National Planning Policy Framework July 2018 (revised NPPF). Paragraph 196 of the revised NPPF requires that less than substantial harm should be weighed against the public benefit of a proposal. However, in this case the benefits arising from the development would be primarily private.
9. As such, I conclude that the development would fail to preserve or enhance the character or appearance of the Conservation Area. Accordingly, the proposal would conflict with the heritage protection and design aims of policies BNE1, BNE2 and BNE4 of Part 1 and BNE10 and H27 of Part 2 of the South Derbyshire Local Plan (2016), and the revised NPPF.

#### **Other matters**

10. The absence of objections to the development does not absolve me from the need to consider the impact of the development on the Conservation Area. The appellant argues the proposed development would enable them to work more comfortably and efficiently from home. Paragraph 81d) of the revised NPPF states, amongst other things, planning policies should be flexible enough to allow for new and flexible working practices such as live-work accommodation. I appreciate the benefits to flexible working the proposal would deliver; however they do not outweigh my findings on the main issue.

#### **Conclusion**

11. For the reasons give above, I conclude that the appeal should be dismissed.

*D Child*

INSPECTOR



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## Appeal Decision

Site visit made on 9 October 2018

by **D Child BA BPL MRTPI**

an Inspector appointed by the Secretary of State

Decision date:

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**Appeal Ref: APP/F1040/W/18/3201929**

**6 Millfield Street, Woodville, Swadlincote DE11 7DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Angela Tamblyn against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/1399, dated 20 December 2017, was refused by notice dated 2 May 2018.
  - The development proposed is a detached dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

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

### Reasons

#### *Character and appearance*

3. Whilst there is variety in the age, architectural style and scale of dwellings on Millfield Street, No 6 is a modern bungalow flanked by single-storey dwellings which define the character and appearance of its immediate context. The small scale of these dwellings and their substantial rear gardens, together with the substantial rear gardens of surrounding dwellings, creates an open and spacious feel which gives the area a strong sense of place.
4. The proposed dwelling would have accommodation across three floors; the front elevation would be a gable with windows on three floors facing towards Millfield Street. Although the development would be set back from this road by some considerable distance, the front elevation would be visible from the access road and in gaps between adjacent dwellings. In these views the development would be much greater in scale than the bungalows in the foreground, and its mass and bulk would appear as an incongruous feature that would dominate rather than complement the existing dwellings.
5. The proposed dwelling would broadly follow the building line, eaves and ridge height of a recently completed residential development to the east. However, because the appeal site has its own access and is separated from it by a tall hedge it does not relate spatially to the proposed development. Moreover, it would have a gable to the side elevation with extensive glazing to three floors

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<https://www.gov.uk/planning-inspectorate>

and a frontage to Millfield Street. Because of this it would not follow the consistent architectural style or orientation of the development to the east, where accommodation is across two floors. As a result, the development would not follow the existing pattern of development and it would be overly dominant in the streetscene. Due its scale, the proposed dwelling would also erode the open and spacious feel of the area.

6. For the reasons set out above, I therefore find the development would be unacceptably harmful to the character and appearance of the area. Accordingly, the development would conflict with the design aims of Policy BNE1 of Part 1 and Policy BNE5 of Part 2 of the South Derbyshire Local Plan (adopted 2016 and 2017 respectively), which, amongst other things, require that developments are well designed and are in keeping with the character of the locality. It would also conflict with paragraph 127 of the revised National Planning Policy Framework (2018) which, amongst other things, promotes developments that are sympathetic to local character and which maintain a strong sense of place.

*Other matters*

7. It has been suggested that the height of the building could be reduced by setting the proposed floor levels lower than the existing ground levels. However, no such plans have been submitted and, in any case, this would be likely to result in a scheme that is materially different to the appeal proposal. As such, I do not consider it would be appropriate to deal with this by way of a condition either. Therefore, I have determined the case on the basis of the plans which are before me.
8. The appellant says had the adjacent developer acquired the appeal site it would have been likely permission for more than one dwelling would have been sought. However, I am unable to conclude what form any such development might have taken, and therefore give this argument little weight.
9. Reference has been made to two-storey development behind a bungalow elsewhere in the locality. I do not know the full details of the circumstances that led to this being considered acceptable. However, its immediate context would not appear to be comparable, and moreover, the proposed development is across three floors, not two. In any event, each case must be considered on its individual merits.
10. I appreciate the appellant sought pre-application advice and that the application was amended prior to determination to reduce the scale of the development. The appellant states that following this they received informal officer advice that the Council was minded to approve the application. Concern over the determination process is not, however, a matter before me.

**Conclusion**

11. For the reasons given above the appeal should be dismissed.

*D Child*

INSPECTOR