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Our Ref

Your Ref

Date: 22nd April 2022

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 03 May 2022 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Gee, Pearson and Southerd.

Conservative Group

Councillors Bridgen, Brown, Lemmon, Muller and Watson.

Independent Group

Councillors Dawson and MacPherson.

Non-Grouped

Councillor Wheelton



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 - 64**
- 5** DEED OF VARIATION LAND AT BOULTON MOOR **65 - 69**

Exclusion of the Public and Press:

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

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/1597	1.1	Melbourne	Melbourne	6
DMPA/2021/1617	1.2	Melbourne	Melbourne	11
DMOT/2021/1694	1.3	Hilton	Hilton	16
DMPA/2020/0395	1.4	Bretby	Repton	21
DMPA/2021/1196	1.5	Bretby	Repton	27
DMPA/2021/1209	1.6	Bretby	Repton	39
DMPA/2022/0301	1.7	Egginton	Etwall	51
DMPA/2021/1416	1.8	Newton Solney	Repton	56

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.

Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

Item No. 1.1

Ref. No. [DMPA/2021/1597](#)

Valid date: 18/10/2021

Applicant: Heafield

Agent: TUK Architecture

Proposal: **Creation of a new disabled access, security gate and erection of an external wall to create a new outdoor amenable space at Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF**

Ward: Melbourne

Reason for committee determination

This item is presented to the Committee as the land is owned by South Derbyshire District Council.

Site Description

The Melbourne Assembly Rooms are housed in a Grade II listed Victorian school on the south side of High Street within the Melbourne Conservation Area. The building is centred on the site with the area around the building utilised mainly for parking.

The proposal

This application seeks planning permission for the following works, which will allow an enclosed outdoor space to be provided on the western side of the building. The space will be used for private functions held at the Assembly Rooms.

- The creation of a new disabled access door in the western elevation of the building, allowing access into the outdoor space from the 'Shone Lounge'. A ramp and 1.1 metre high handrail will be installed outside the new door, compliant with Part M of Building Regulations.
- A black metal security gate on the northern elevation, to restrict access to the western side of the building from the front of the site.
- The erection of a 2 metre high external brick wall to enclose the new outdoor space.

Amended plans were received during the application in response to comments made by the Council's Conservation Officer. The amended plans altered the design of the new door, the location of the handrail to the ramp and the location of the new wall.

Applicant's supporting information

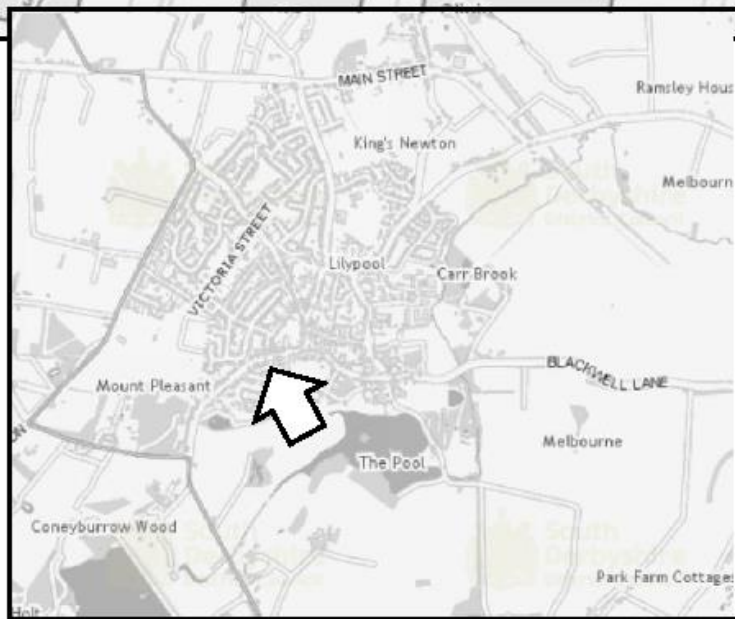
A Design and Access Statement and Heritage Statement have been submitted in support of the proposed works.


Relevant planning history

DMPA/2021/1420 - Various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision.
Approved 8 February 2022

DMPA/2021/1469 - Listed Building Consent for various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision.
Approved 8 February 2022

DMPA/2021/1597 & DMPA/2021/1617 – Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF



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South Derbyshire District Council. LA 100015461.2020

9/2012/0703 – The erection of a storeroom extension and minor internal/external alterations including creation of improved entrance lobbies, foyer/bar and bar store, new kitchen and outdoor amenity space.

Approved September 2012.

9/2007/0224/F – The construction of disabled access ramp to the rear.

Approved May 2007.

Responses to consultations and publicity

Conservation Officer (5.11.21) - The proposal fails to 'preserve' the special architectural and historic significance of the building as a listed building.

The harm arises from the proposal to alter an existing window opening to form an additional external door to the building. Advice had been given that this door should be a part glazed door with the upper portion glazed, to reflect the cill line of the existing windows. The design proposed is a fully glazed door incorporating glass below the cill line, which unnecessarily misses an opportunity to at least partially reflect the existing glazing extent.

The plans also show a handrail to one side of the door but have shown this against the wall in the same direction that the door opens outwards. As such, anyone who actually needs to use the handrail will find it incredibly inconvenient to actually use this doorway as the door itself blocks any direct access between the door opening and the handrail. The obvious solution is to hinge the door on the opposite side.

The wall to enclose the yard area was previously discussed as being best placed between the triple window sets, or out beyond them near the corner to the south but is now proposed as splitting one of these groups of three windows, again resulting in greater harmful impact than would be necessary.

The following amendments are proposed:

- Amended design for the proposed door, including amending its hinging to open to the opposite side.
- Amended alignment for the proposed wall so as to not split up the triplet window arrangement.
- Proposals are included for the re-roofing of the outbuilding to the east so as to present a benefit of the scheme which can balance against the impacts of the proposed new door opening.

Without these amendments and additions, it is considered that the proposal results in greater harm than is necessary and as such does not have a clear and convincing justification. On balance the proposal results in less than substantial harm to a designated heritage asset (listed building) engaging a strong and statutory presumption against granting listed building consent and planning permission under sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm would be less than substantial and therefore the test within paragraph 202 of the NPPF should be applied, weighing harm against public benefits.

Conservation Officer (16.2.22) – It is confirmed that the reroofing of the outbuilding is not part of the works associated with this application. Further discussions are required in relation to this element before proposals can be put forward. Following amendments made to the proposals, the application is supported and would preserve the heritage asset.

Melbourne Civic Society (7.11.21) – Further details required for gate. Better options for door. The outside area should be raised, rather than constructing a ramp.

One comment has been received on behalf of the Board of Melbourne Assembly Rooms and two

comments have been received from members of the public. All support the application, commenting that it will enhance the facilities at the centre.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE10 (Heritage)

Relevant emerging policy is:

Melbourne Neighbourhood Development Plan – regulation 16 reached (Independent Examination)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Melbourne Conservation Area Statement Adopted 2011

The relevant national policy and guidance is:

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

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are the impact on the historic fabric and external character of the listed building.

Planning assessment

Principle of development

The application is for works on and adjacent to the Grade II listed Victorian school. The principle of development is considered to be acceptable, subject to how the works impact on the historical value of the Heritage Asset.

Heritage Impact

Policy BNE2 states that development must protect, conserve and enhance the heritage assets and their settings. Policy BNE10 of LP2 states that proposals should demonstrate that the proposed design is sympathetic and minimises harm to the asset.

The original Conservation Officer's comments stated that the proposed works should address three points:

- An amended design for the proposed door should be provided, including amending its hinging to open to the opposite side.
- An amended alignment for the proposed wall was suggested, to avoid splitting up the triplet window arrangement.
- Proposals for the re-roofing of the outbuilding to the east should be included in the proposal to present a benefit of the scheme which can balance against the impacts of the proposed new door opening.

The first point was addressed via an amended design for the door, indicating the hand rail on the opposite side and a new design which matched the glazing panes of the triplet windows.

The second point was addressed through an amendment to the siting of the new wall to lie between the sets of triplet windows, rather than being awkwardly located in a position that directly split one of the triplet window arrangements. This alteration is considered to be a positive improvement which preserves the views and integrity of this elevation of the building and allows the layout of the original

playground area of the school to still be read. The amended siting of the new wall also integrates better with the existing lean-to and should result in a pleasant outdoor amenity space area for the site.

The third point was re-considered by the Conservation Officer and it was deemed that the improvements to the door design and siting of the wall meant that the replacement of the roof of the outbuilding was not necessary to present a benefit of the scheme to balance against the impacts of the proposed new door opening.

Whilst the alterations are acknowledged to result in a degree of harm to the Listed Building, this would be relatively minor and less than substantial. In this case, the harm would be offset by the resulting improvements to the facilities of the Assembly Rooms. Likewise, due to the enclosed nature of the site there would be limited visibility of the proposed works from outside the site and the character and appearance of the wider Conservation Area would be preserved.

Therefore, it is considered that the proposal is in accordance with Policy BNE2 of the LP1, policy BNE10 of the LP2 and the duties of the Council under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation of a Listed Building, its setting and any features of special architectural or historic interest which it possesses and to pay special attention to the preservation and enhancement of the surrounding Conservation Area.

Impact on the amenity of neighbouring occupiers.

The western side of the site is enclosed by a boundary wall and the proposed works will only have limited visibility from outside the site. The proposals would have no material impact on the amenity of the occupiers of any neighbouring properties. In this respect, the proposal is considered to accord with policies SD1 and BNE1, which state that development should not lead to adverse impacts on the environment or amenity of existing and future occupiers.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans:
 - 2108-02-P03 Rev. C - Location and Block Plan;
 - 2108-02-P02 Rev. C - Elevations and Detailed Sections;
 - 2108-02-P01 Rev. C - Proposed Floor Plans.unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

Item No. 1.2

Ref. No. [DMPA/2021/1617](#)

Valid date: 18/10/2021

Applicant: Heafield

Agent: TUK Architecture

Proposal: **Listed Building Consent for creation of a new disabled access, security gate and erection of an external wall to create a new outdoor amenable space at Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF**

Ward: Melbourne

Reason for committee determination

This item is presented to the Committee as the land is owned by South Derbyshire District Council.

Site Description

The Melbourne Assembly Rooms are housed in a Grade II listed Victorian school on the south side of High Street within the Melbourne Conservation Area. The building is centred on the site with the area around the building utilised mainly for parking.

The proposal

This application seeks Listed Building Consent for the following works, which will allow an enclosed outdoor space to be provided on the western side of the building. The space will be used for private functions held at the Assembly Rooms.

- The creation of a new disabled access door in the western elevation of the building, allowing access into the outdoor space from the 'Shone Lounge'. A ramp and 1.1 metre high handrail will be installed outside the new door, compliant with Part M of Building Regulations.
- A black metal security gate on the northern elevation, to restrict access to the western side of the building from the front of the site.
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Amended plans were received during the application in response to comments made by the Council's Conservation Officer. The amended plans altered the design of the new door, the location of the handrail to the ramp and the location of the new wall.

Applicant's supporting information

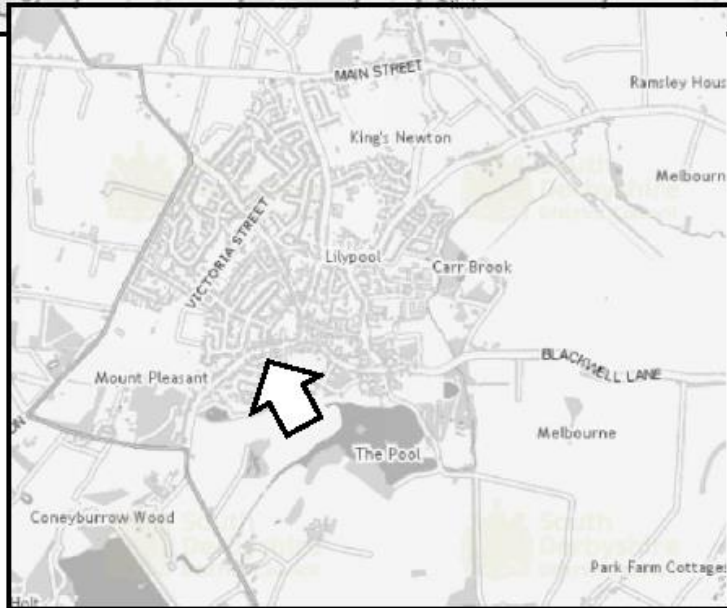
A Design and Access Statement and Heritage Statement have been submitted in support of the proposed works.

Relevant planning history

DMPA/2021/1420 - Various works including the demolition of an outbuilding permitted under a previous approval 9/2012/0703/L, the reduction in height of a boundary wall and the installation of a free standing electrical distribution box supplying 4 electrical vehicle charging points secured to the boundary at 1.2m above ground level and CCTV camera provision.
Approved 8 February 2022

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Approved 8 February 2022

DMPA/2021/1597 & DMPA/2021/1617 – Melbourne Assembly Rooms, Leisure Centre, High Street, Melbourne, Derby DE73 8GF



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South Derbyshire District Council
South Derbyshire District Council. LA 100019461.2020

9/2012/0703 – The erection of a storeroom extension and minor internal/external alterations including creation of improved entrance lobbies, foyer/bar and bar store, new kitchen and outdoor amenity space. Approved, Sep 2012.

9/2007/0224/F – The construction of disabled access ramp to the rear. Approved, May 2007.

Responses to consultations and publicity

Conservation Officer (5.11.21) - The proposal fails to 'preserve' the special architectural and historic significance of the building as a listed building.

The harm arises from the proposal to alter an existing window opening to form an additional external door to the building. Advice had been given that this door should be a part glazed door with the upper portion glazed, to reflect the cill line of the existing windows. The design proposed is a fully glazed door incorporating glass below the cill line, which unnecessarily misses an opportunity to at least partially reflect the existing glazing extent.

The plans also show a handrail to one side of the door but have shown this against the wall in the same direction that the door opens outwards. As such, anyone who actually needs to use the handrail will find it incredibly inconvenient to actually use this doorway as the door itself blocks any direct access between the door opening and the handrail. The obvious solution is to hinge the door on the opposite side.

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- Proposals are included for the re-roofing of the outbuilding to the east so as to present a benefit of the scheme which can balance against the impacts of the proposed new door opening.

Without these amendments and additions, it is considered that the proposal results in greater harm than is necessary and as such does not have a clear and convincing justification. On balance the proposal results in less than substantial harm to a designated heritage asset (listed building) engaging a strong and statutory presumption against granting listed building consent and planning permission under sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The harm would be less than substantial and therefore the test within paragraph 202 of the NPPF should be applied, weighing harm against public benefits.

Conservation Officer (16.2.22) – It is confirmed that the reroofing of the outbuilding is not part of the works associated with this application. Further discussions are required in relation to this element before proposals can be put forward. Following amendments made to the proposals, the application is supported and would preserve the heritage asset.

Melbourne Civic Society (7.11.21) – Further details required for gate. Better options for door. The outside area should be raised, rather than constructing a ramp.

One comment has been received on behalf of the Board of Melbourne Assembly Rooms and two comments have been received from members of the public. All support the application, commenting that it will enhance the facilities at the centre.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE10 (Heritage)

Relevant emerging policy is:

Melbourne Neighbourhood Development Plan – regulation 16 reached (Independent Examination)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Melbourne Conservation Area Statement Adopted 2011

The relevant national policy and guidance is:

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

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are the impact on the historic fabric and external character of the listed building.

Planning assessment

Principle of development

The application is for works on and adjacent to the Grade II listed Victorian school. The principle of development is considered to be acceptable, subject to how the works impact on the historical value of the Heritage Asset.

Heritage Impact

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The first point was addressed via an amended design for the door, indicating the hand rail on the opposite side and a new design which matched the glazing panes of the triplet windows.

The second point was addressed through an amendment to the siting of the new wall to lie between the sets of triplet windows, rather than being awkwardly located in a position that directly split one of the triplet window arrangements. This alteration is considered to be a positive improvement which preserves the views and integrity of this elevation of the building and allows the layout of the original playground area of the school to still be read. The amended siting of the new wall also integrates better with the existing lean-to and should result in a pleasant outdoor amenity space area for the site.

The third point was re-considered by the Conservation Officer and it was deemed that the improvements to the door design and siting of the wall meant that the replacement of the roof of the

outbuilding was not necessary to present a benefit of the scheme to balance against the impacts of the proposed new door opening.

Whilst the alterations are acknowledged to result in a degree of harm to the Listed Building, this would be relatively minor and less than substantial. In this case, the harm would be offset by the resulting improvements to the facilities of the Assembly Rooms.

Therefore, it is considered that the proposal is in accordance with Policy BNE2 of the LP1, Policy BNE10 of the LP2 and the Council's duties under section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the preservation of a Listed Building, its setting and any features of special architectural or historic interest which it possesses.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Grant consent subject to the following conditions:

1. The works hereby approved shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The works hereby permitted shall be carried out in accordance with the following plans:

- 2108-02-P03 Rev. C - Location and Block Plan;
- 2108-02-P02 Rev. C - Elevations and Detailed Sections;
- 2108-02-P01 Rev. C - Proposed Floor Plans.

unless as otherwise required by condition attached to this consent.

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

Item No. 1.3

Ref. No. [DMOT/2021/1694](#)

Valid date: 03/11/2021

Applicant: Josh Breen

Agent: Wilby Tree Surgeons Ltd

Proposal: The pruning of an oak tree covered by South Derbyshire District Council Tree Preservation Order no. 533 on Land at SK2531 3702, Lucas Lane, Hilton, Derby

Ward: Hilton

Reason for committee determination

This item is presented to the Committee at the request of Councillors Patten and Lemmon as local concern has been expressed about a particular issue.

Site Description

The tree subject to this application is covered by Tree Preservation Order 533 and is located within a field boundary to the west of Lucas Lane. Acorn House is located to its west and beyond Lucas Lane, open fields to its east. To the north is the A516.

The proposal

The proposal is for a 5.5 metre crown lift to remove conflict between high sided vehicles and the tree. The applicant has confirmed that the works will involve the lifting of secondary and tertiary branches only to ensure a crown lift to British Standard 3998.

Applicant's supporting information

An application form detailing the proposed works and sketch plan have been submitted in support of the application.

Relevant planning history

DMPA/2019/1143: Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the residential development of up to 57 dwellings with associated landscaping, parking and sustainable drainage - Approved September 2020.

DMPA/2021/1277: Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2019/1143 - Pending consideration.

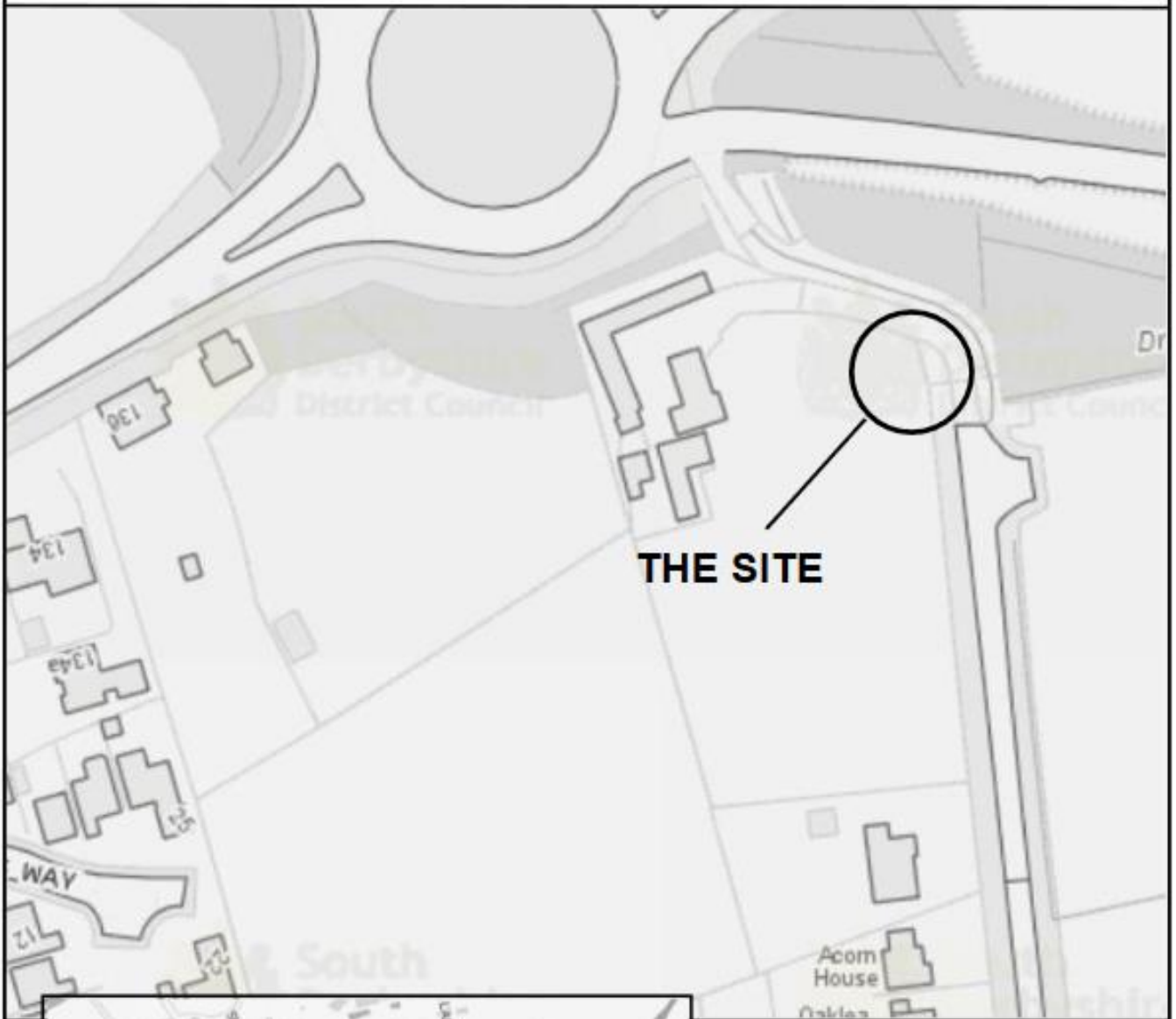
Responses to consultations and publicity

Tree Officer - No objection subject to a condition. The Oak Tree has excellent, shape, form, appearance and is in a good condition. The crown lift is required to allow high sided vehicles to pass. The information provided on the application about a 5.5m height crown lift is an ambiguous detail and a condition has been recommended to address this.

Hilton Parish Council objects to the proposals and raising the following points:

- a) Application is not complete as it doesn't include any photographs of the tree indicating the branches to be removed;
- b) A 5.5m crown lift would render the tree a very odd shape and probably unsustainable;

DMOT/2021/1694 – Land at SK2531 3702, Lucas Lane, Hilton, Derby



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South Derbyshire District Council. LA 100019481.2020

- c) The roots of the tree are in danger of severe compaction from the footpath, which will result in their dying. The combination of the excessive crown lift and compaction of the roots will in most certainty lead to the death of this tree;
- d) It will be much kinder to the tree if lorry access was via the lower access road for which the hedgerow has already been prematurely removed. It is also possible to move the access road and footpath by the oak tree approximately 2m to the east;
- e) The preservation of this tree is important to retaining some character to what will end up just an urban landscape.

31 responses from 25 local residents raising objections and making comments on the proposals have been received, raising the following comments:

- a) Provides biodiversity and habitat for bats and birds;
- b) Provides shade and inspiration for recreational activities;
- c) The existing driveway should be reused, minimising impact on tree and reducing use of resources such as hardcore;
- d) Any "pruning" would result in the tree being damaged and destroyed;
- e) It will look deformed and absurd, and may also die as the result of such drastic management procedures. 'To raise the crown' - is something that can be sensibly done to some trees at some stages of their life, especially in garden settings, but you don't do it to mature oaks;
- f) Mature trees and country lanes are increasingly important to the mental wellbeing of all Hilton residents;
- g) Developers should not be allowed to destroy nature;
- h) The damage to grass verges in Lucas Lane is already bad due to another building venture which is caused by the workers cars and vans parking on the grass and the road is fast becoming a muddy mess. The new building by Morris homes will increase this and a road with the prettiest verges will be destroyed;
- i) This majestic oak was going to be the only retaining original feature of Lucas Lane amongst more new housing due to the constant planning approval to an already overbuilt village;
- j) How is this compatible with "Green Targets" as mentioned by the LGA;
- k) When we have so many issues with climate change and have list so many trees in the recent storms, why are SDDC letting builders destroy what natural hedgerows and trees that are left;
- l) Any building applications can work around the tree and make it a feature rather than prune or remove. This tree will be home to lots of valuable wildlife;
- m) Concerned that the tree will be felled and this will be detrimental to the wildlife that have already incurred uprooting due to the land disruption;
- n) Trees are absolutely necessary for water drainage, absorbing pollutants (A50) and providing cleaner air; and
- o) Trimming the trees crown and branches will irretrievably damage the habitat of the 395+ species that depend on an oak tree for survival. Damaging the tree will have a devastating knock-on effect on the area's wildlife and biodiversity.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:

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

The relevant legislation is:

- The Town and Country Planning (Tree Preservation) Regulations 2012

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Whether the works are justified; and
- Whether the resultant biodiversity and amenity value remains acceptable.

Planning assessment

The proposed works relate to lifting the crown of the oak tree which is covered by TPO 533. The applicant has requested the crown lift works to the tree to prevent any conflict between the oak tree and an access into the site which will be used by lorries and other high sided vehicles which will pass by. Whilst a reserved matters application is currently under consideration, access for the proposed residential development was approved under planning permission DMPA/2019/1143 and this shows the northern access point in close proximity to the protected tree.

The applicant has advised that the crown lift will consist of the removal of secondary and tertiary branches only, shortening them back to primary limbs or alternative good strong point, which is in accordance with 'Best Standard' for trees. In this regard, the crown lift is considered to be acceptable and will prevent avoidable damage by such vehicles. The council's Tree Officer has confirmed that subject to a condition to control the works to this the proposals are acceptable.

The works as proposed and controlled by condition would ensure that the health and sustainability of the tree would not be detrimentally affected. The benefits of the tree for its biodiversity potential and habitat would also be retained and whilst altered, the form and value of the tree in its landscape would also be retained.

In light of the above, it is considered that the proposed works would be in line with the aims and objectives of Policies BNE3, BNE4 and BNE7 and the relevant sections of the NPPF.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Grant consent 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 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 works shall be carried out in accordance with the recommendations contained in BS3998:2010 Tree work.

Reason: In the interests of good arboricultural practice.

3. Notwithstanding the information submitted in support of the application the works shall consist of a crown lift over the road footprint to a maximum of 5.5m. This shall involve the reduction of secondary and tertiary branches only, shortened back to primary limbs or alternative good strong growth points. Any larger primary branches that require pruning should be shortened no further

than the road edge. No main structural branches or limbs to be shortened any further than is necessary or the road kerbstones, whichever is the lesser.

Reason: In the interests of good arboricultural practice.

Item No. 1.4

Ref. No. [DMPA/2020/0395](#)

Valid date: 10/08/2020

Applicant: Dean Willshee

Agent: Marrons Planning

Proposal: **The variation of condition no. 2 of permission ref. 9/2017/1402 (relating to the layout of cabins) for the erection of 8 No. holiday cabins, to seek minor material amendments to the access road, size of cabins, layout of cabins and associated entrance gate at Land at SK2923 5475 (Knights Lodges), Knights Lane, Bretby, Derbyshire, DE15 0RT**

Ward: Repton

Reason for committee determination

This item is called to committee by Councillor Southerd.

Site Description

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

The proposal

The application seeks to regularise the development of eight holiday cabins in the north eastern corner of the application site which was not built in accordance with the original permission (9/2017/1402).

Applicant's supporting information

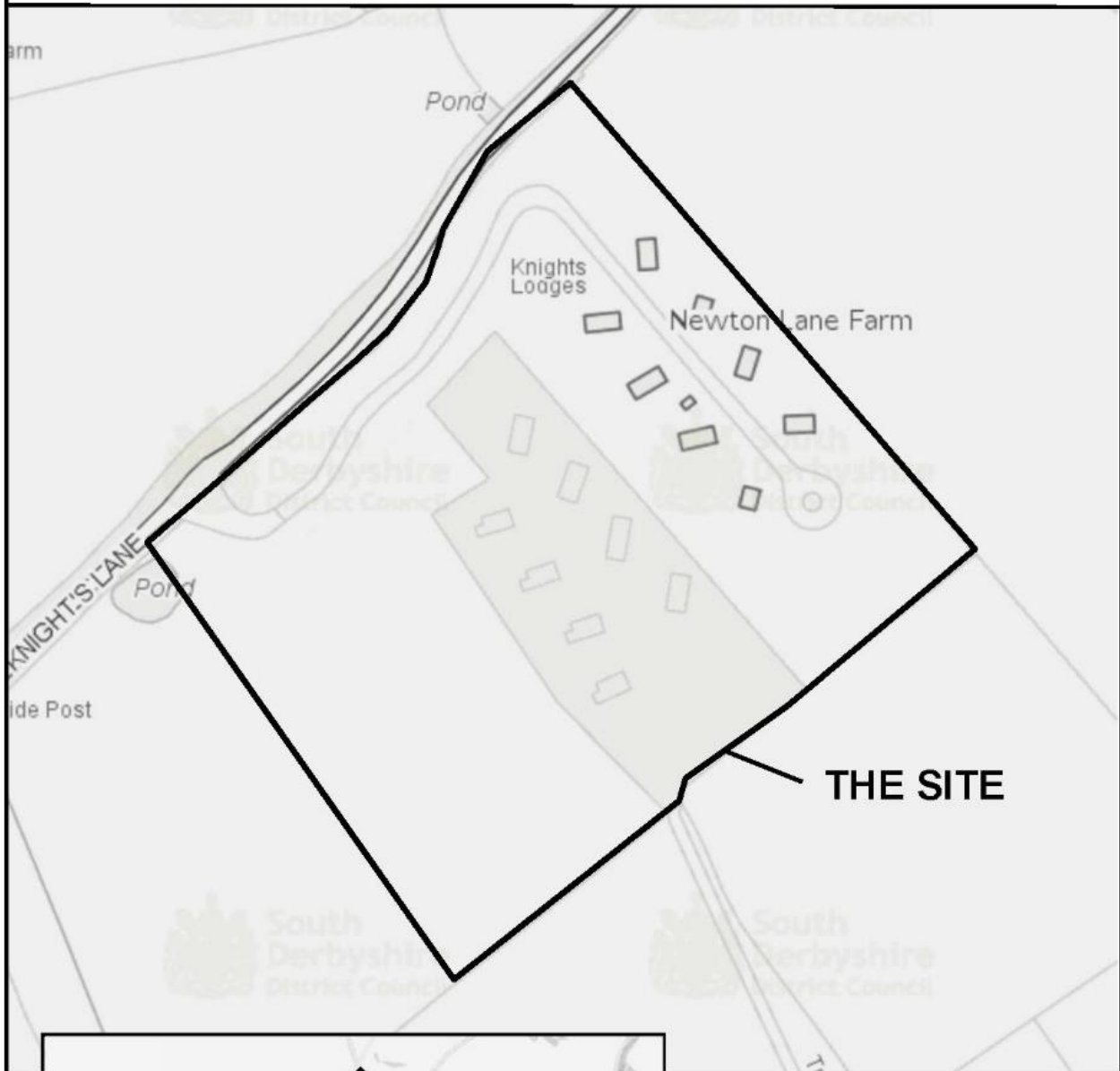
A Covering Letter - sets out the amendments sought stating that they do not alter the number of units or the location of the access from the main road or the use of the holiday cabins.

a Noise Mitigation Strategy has been prepared by Sharps Redmore Acoustic Consultants has been prepared following occupation of the holiday cabins. The noise levels recorded show that the levels on potential receptors are relatively low, acoustic screening of individual outdoor seating areas is not required. General management measures are recommended such as a quiet site policy to be enforced between 10pm and 8am, hot tubs to be switched off and vacated by 11pm and no external music to be played at any time. This addresses the requirements of Condition 15 of the original permission.

A Biodiversity Enhancements Statement has been submitted that reviews the recommendations of the original ecological appraisal against the development as built which included a qualified ecologist walking the site assessing what enhancements that had been put in place and whether these were sufficient for the as-built development in terms of offsetting the impact of the development.

A Lighting Details Strategy has been provided by Nick Smith Associates Lighting Engineers setting out details of the lighting installed on the site. This addresses condition 16 of the original permission. This statement sets out the specification of the lighting, low level down lighting that has minimal impact on the setting of the landscape.

DMPA/2020/0395 – Land at Knights Lane, Bretby, Burton On Trent, DE15 0RT



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An Economic Benefits Statement has been submitted outlining the benefits of the development setting out the number of jobs generated and the potential investment made by visitors to the local economy based on a consistent occupancy rate currently being achieved of 95%. The prudently estimated economic contribution of £369,000 per annum for this phase of the Knights lodge development.

Relevant planning history

9/2017/1402 - The erection of 8 Holiday cabins - Approved (Committee) 02/05/2018

DMPA/2019/1305 - The erection of 8 holiday cabins - Approved 24/03/2020

DMPA/2020/0933 - Retention of a plant room - Approved 08/01/2021

DMPA/2021/1209 - Retrospective application for the erection of 8 holiday lodge buildings (application DMPA/2019/1305 relates) - Pending

Responses to consultations and publicity

LLFA - Due to the nature of this application the LLFA has no comment to make.

Derbyshire Wildlife Trust - There are no new ecology impacts associated with the amended layout as shown on the Proposed Site Plan drawing number 0252 A-PL-001 Rev H in respect of the variation of condition 2 of 9/2017/1402 and therefore no objection.

Environmental Health - No comments in regards the application.

County Highways - The additional drawings upon which CHA has been reconsulted, dated 01/02/2021, include two access arrangement drawings (HAS/20-068/01 rev A & HAS/20-068/02 rev A) which reflect the original arrangements, showing the required visibility sightlines, a 6m wide access road and, whilst they include 10m radii rather than the 6m radii previously approved, are considered to be acceptable to the Highway Authority. Therefore, provided a condition is included in any consent requiring the access to be laid out and constructed in accordance with the revised access drawings (HAS/20-068/01 rev A & HAS/20-068/02 rev A), there are no objections to the proposal from the highway point of view.

One neighbour objection has been submitted raising the following issue:

- more lodges etc would create more noise pollution

Relevant policy, guidance and/or legislation

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF10 (Tourism Development).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage).

Local Guidance

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

National Guidance

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

Planning considerations

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

- Principle of development
- Design, biodiversity and landscape character
- Highway safety and parking provision.

Planning assessment

Principle of development

This application is a Section 73 application and seeks to regularise the development approved under existing permission (9/2017/1402) by approval of alternative plans reflecting the development as built rather than as originally approved. These amendments reflect the overall layout, an additional lodge style (the 'Skyline' Pine lodge), construction of a small plant room, an additional building not previously shown on plan and a slightly altered road layout and position of gates. The principle of development has already been addressed in the previous permission and the development was considered to comply with policies BNE5, and in particular, INF10. This application assesses the impact of these amendments on the overall proposal and their suitability and provides additional information sufficient to remove other conditions that would previously need to be discharged. The inclusion of the Plant room, not originally included in the original planning permission does not need to be covered by this consent as it was granted consent under DMPA/2020/0933 and therefore is not included on the 'proposed' site plan listed in condition 1.

Design biodiversity and landscape character

The original layout and design of the cabins was such that space is afforded between each unit. This also provided each cabin with some outside space and allows for the landscaping scheme which will provide the screening required in terms of amenity for the residents of the cabins as well as to safeguard the conservation area from view. The minor amendments to the scheme as built include the alternative design for one of the holiday chalets and the plant room that was not previously identified on the approved plans, which itself was the subject of an application (DMPA/2020/0933). These changes are considered to make very little difference to the overall visual appearance of the development such that they would be virtually indistinguishable from the original scheme from the highway or from the public footpath to the west, particularly given the second phase of holiday chalets had been approved to the west soon after the initial consent. The holiday chalets have been built as temporary buildings with vertical larch cladding exterior. The cabins, although just outside the National Forest area, reflect the built structures supported by BNE1 and are considered to be suitable across the District for this type of accommodation. The landscaping plan appears to have been implemented in accordance with the landscaping scheme submitted with the original permission which, in time, will help to soften the impact of the buildings on the wider landscape though this was accepted in the original report that due to the nature of the site the cabins could not be completely screened from view.

The previous permission set out conditions relating to planting and ecology enhancements as part of the original appraisal. An Ecology update has been provided of the measures that have been implemented on site not all of the recommendations set out in the original appraisal have been taken forward. However, the assessment states that the selected enhancements implemented on site are a reasonable and proportionate interpretation of Section 5 of the original report and as such provide sufficient biodiversity enhancement to comply with policy BNE3 and Derbyshire Wildlife Trust has no objection to the implemented scheme.

Highway safety and parking provision

The parking on the initial scheme and as built is provided adjacent to each chalet as two spaces to per chalet. the access from Knights Lane into the site is close to the edge of the former agricultural field to minimise the visual impact. The slightly amended road layout remains close to the edge of the field and is considered acceptable. The Highway Authority has no objection to the proposal and note that as built, the access is an improvement on the specification required by the original permission with the introduction of 10m radii at the entrance, an improvement on the 6m radii required. The proposal therefore complies with 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

1. The development hereby permitted has been carried out in accordance with plans/drawing refs.

PL-101 Revision H (Site Plan)

PL-000 Revision C (Floor Plans Cabins 1-3)

PL-001 Revision C (Floor Plans Cabin 4)

PL-002 Revision C (Floor Plan Cabin 5)

PL-003 Revision C (Floor Plans Cabins 6-8)

PL-201 Revision C (Elevations Cabins 1-3)

PL-203 Revision C (Elevations Cabin 4)

PL-200 Revision C (Elevations Cabin 5)

PL-202 Revision C (Elevations Cabins 6-8)

GL0797 01E (Tree Planting Plan)

HAS/20-068/02 Rev A (Amended Access Arrangement)

101 Revision P1 (Drainage Layout)

No changes to the layout shall be made unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) revoking and re-enacting either or both Order(s), with or without modification, the building(s) hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority pursuant to an application made in that regard, and:

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

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

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

Reason: The provision of conventional residential dwellings in this location would be contrary to the Development Plan and the objectives of sustainable development, and to enable to the effective monitoring of the use of the site.

3. The site access as implemented complies with application drawing HAS/20-068/01 rev A. The access has a minimum width of 6m and is provided with 10m radii and visibility sightlines of 2.4m x 160m in each direction. The area forward of the sightlines shall be maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

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

4. Within three months of the date of this permission, a scheme for the management and maintenance of the foul and surface water drainage scheme as set out in Drawing No 101 Rev P1 showing details of the foul and surface water drainage and a timescale for provision, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

Reason: In the interests of pollution control and to ensure suitable provision for maintenance and management of the drainage system installed.

5. All planting, seeding or turfing comprised in the approved details set out on drawing GL0797 01E shall be retained and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

6. Management measures as set out in the submitted Noise Management Scheme shall be maintained for the life of the development and available for inspection as necessary by the Local Planning Authority within two working days.

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

7. All lighting installed on site is in accordance with the specifications detailed in the lighting assessment prepared by Nick Smith Associates and shall not be altered from its existing layout unless agreed in writing by the Local Planning Authority.

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

Item No. 1.5

Ref. No. [DMPA/2021/1196](#)

Valid date: 06/09/2021

Applicant: Dean Willshee

Agent: Marrons Planning

Proposal: **The erection of leisure building with associated access, parking and landscaping on Land at Knights Lane, Bretby, Burton On Trent, DE15 0RT**

Ward: Repton

Reason for committee determination

This item is called to Committee by Councillor Southerd.

Site Description

The site sits on the south east side of Knights Lane. This is a fairly straight road which runs from Winshill towards Repton Hollows. The land sits just below a ridge which then runs down to the applicant's property and other dwellings in Bretby village. The field was previously typical arable agricultural land. The site is set on a slope which runs down towards the Trent valley in Repton and Newton Solney. There are extensive views north and north west up towards the south of the Peak District in the distance and Nottinghamshire to the north east.

There is a substantial, thick hedgerow along the boundary of the field where the first phase of the lodges are located, This is set approx. 1m higher than the road level, and there are glimpsed views of the existing lodges on the hillside. The existing vehicular entrance for the lodges has been provided in phase 1 with stone entrance wall as the driveway curves round to the left to a set of metal gates and fencing with an electrically operated gate system.

The first phase is completed with the 8 cabins erected on site. There is temporary fencing between phases 1 and 2, as the second phase is already well under construction, with this post facto scheme for the permanent buildings. At the time of the site visit, most were being constructed with the breeze blocks showing prior to the timber cladding being added.

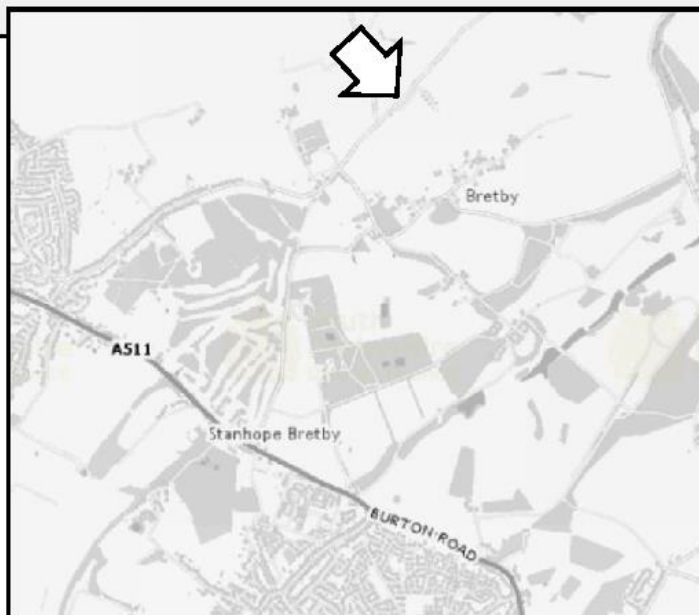
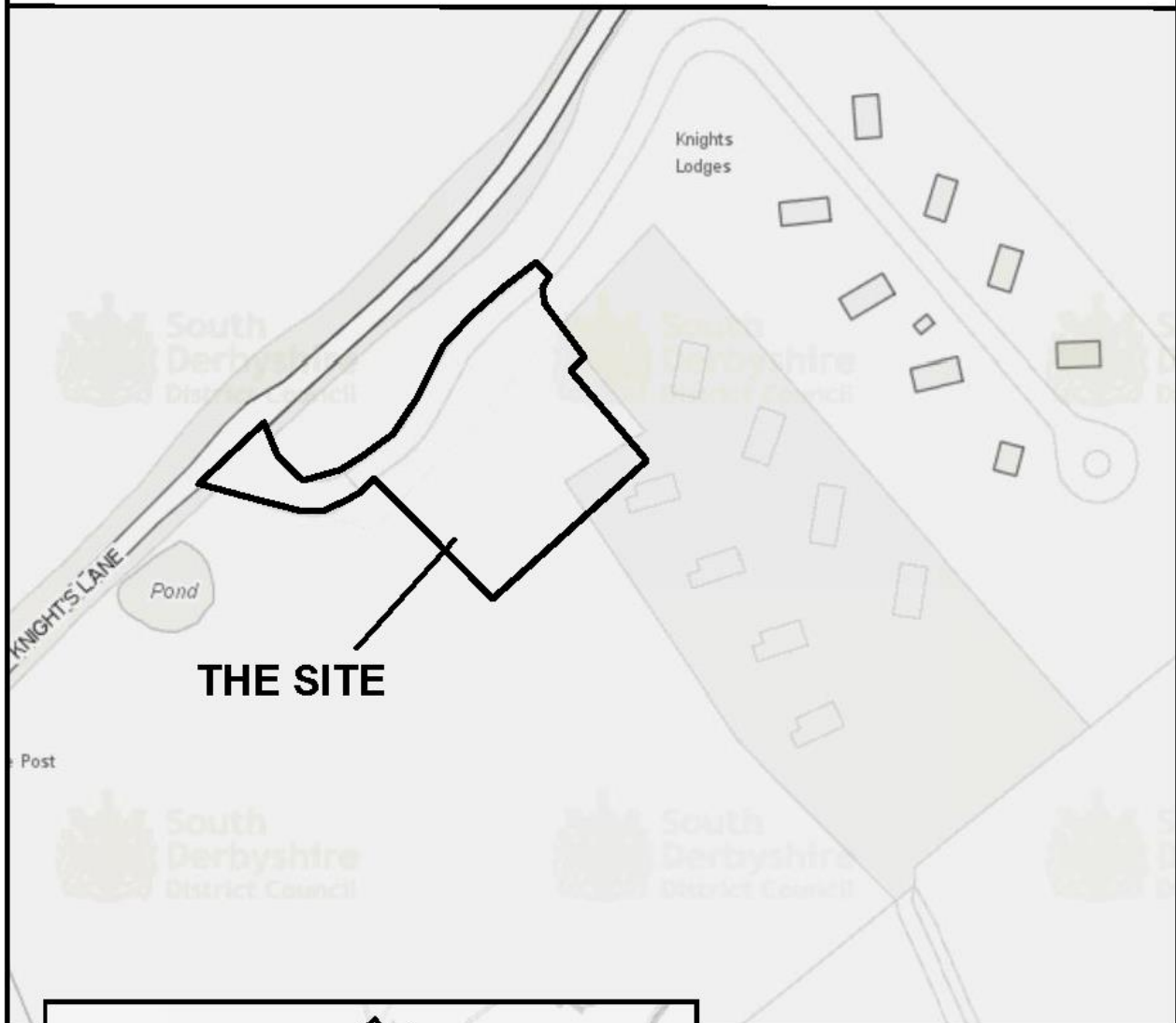
The proposal

This is a revised application for the leisure building which is to be used by tourists using the 16 lodges at the site. The facilities would be available to use during the course of their stay.

The revised scheme provides a larger building than that permitted; 481sqm instead of 392sqm. This scheme provides a swimming pool area, in the eastern wing of the building, with ancillary seating and decking area, and in the western wing there is a reception, a gym, two treatment rooms, a toilet and changing facilities. The orientation has been chosen to maximise natural light and provide views from the building of the countryside. The materials will be a mix of stone, like the entrance gates and features, and the vertical larch cladding, like the adjacent holiday lodges. There would be anthracite grey colour standing seam roofs, window frames gutters and downpipes in the same colour.

The building is also supported with an appropriate level of car parking for staff and work vehicles, and possibly some client parking on the way out of the site or coming back in to the site, or in the event of heavy rain. It is proposed that the drainage scheme would connect to the existing drainage infrastructure on site. A private package treatment works is provided for foul sewage.

DMPA/2021/1196 – Land at Knights Lane, Bretby, Burton On Trent, DE15 0RT



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Applicant's supporting information

The applicant has submitted a raft of documents and information in support of his retrospective proposal, including a Landscape and Ecological Management Plan, a Design and Access Statement, an Ecological Appraisal, a Flood Risk Assessment, a Noise Mitigation Strategy, a Drainage Strategy and Soil Infiltration Report, a Business Plan to indicate economic benefits, and associated plans to describe the proposed development.

Relevant planning history

9/2017/1402. Erection of 8 holiday cabins and associated access and parking facilities (phase 1). Approved.

DMPA/2019/1305- Erection of 8 holiday cabins (Phase 2). Approved.

DMPA/2020/0226. Erection of leisure building for the 16 holiday cabins in phases 1 and 2. Approved.

DMPA/2020/0933 Retention of plant room. Approved.

DMPA/2020/0395. Revision to phase 1 layout. Pending.

DMPA/2021/1209. Revision to phase 2. Pending.

Responses to consultations and publicity

The County Highway Authority has noted that the scheme does not differ to any great significant degree in highway terms from that which was approved under application DMPA/2020/0226. The same conditions can therefore be imposed for this development which is mainly as ancillary leisure provision to support the existing tourist use and not for the public. There would therefore be no significant detrimental impact on the highway network or highway safety.

The Environment Agency notes the location within flood plain zone 1, and therefore have no comments to make.

The Local Lead Flood Authority had initial concerns with the proposal, and requested a significant amount of additional information and clarification regarding the surface water drainage and then combining it with comments regarding the revised lodges. They requested additional information and clarification on a number of items. This has been provided and the LLFA now consider that the proposal is acceptable, subject to the imposition of appropriate conditions.

Derbyshire Wildlife Trust has noted that the scheme is similar to that previously been presented. The comments therefore remain the same as suggested for DMPA/2020/0226. The proposal would not result in any impact on habitats or species of substantive nature conservation value. The previous condition imposed can be re-imposed and the development carried out in accordance with the Landscape and Ecological Management Plan, the Ecolocation report, and appropriate tree planting proposals.

The Environmental Health Officer has no objections or comments to make about the proposal.

The Landscape Officer made some comments with regard to the proposed revisions. These have been updated and the proposed scheme is now acceptable and should be implemented.

No other comments have been received to the consultation process.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1) – S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and

Developer Contributions), INF2 (Sustainable Transport), and INF10 (Tourism Development).
Local Plan Part 2 (LP2) – SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows), and BNE10 (Heritage)

The relevant local guidance is:

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

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Forest Vision
- Action Plan for Sustainable Tourism
- The Landscape Character of Derbyshire

The relevant legislation is:

- The Town and Country Planning Act 1990
- Conservation of Habitats and Species Regulations 2017 (as amended)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of the tourist development – the erection of a leisure building to support the 16 chalets and lodges;
- Impact of the development on landscape character, biodiversity and heritage assets;
- Impact of the development on highway safety: and
- Impact of the development on surface water management.

Planning assessment

Principle of the tourist development – the erection of a leisure building to support the 16 chalets and lodges

The principle of the erection of a leisure building was approved as part of application DMPA/2020/0226. As indicated above, the principle for tourist facilities has already been approved at the site in 2017 and 2020. The use of the wider site for tourism related development has generally been accepted to support the National Forest Tourism Growth Action Plan and Leisure accommodation needs for this type of self-catering accommodation, while it may not be located within it as it is in close proximity.

The proposal still forms part of the portfolio for the Hoseasons Autograph Collection. The applicant has provided evidence that the scheme would benefit the local economy in additional tourist spending within the borough and surrounding areas. There are high occupancy rates in the existing lodges in phase 1. The scheme would continue to provide local jobs for cleaners and maintenance staff. There is expected to be ongoing demand for the leisure facilities, based on the increase in the larger units provided by the revised phase 2 scheme. This is likely to have a greater impact than the approved phase 2 scheme, on the basis of providing a greater amount of on site accommodation, and therefore more people visiting the site and surrounding tourist facilities and commercial businesses, and using the leisure facilities to be provided within this building.

This leisure building provides facilities, which support the retention of the tourists who stay in the cabins and lodges to stay on site during the day, if they wish to, to have a swim, a massage, or other facilities provided within the building. It adds to the offer available for occupants. The issues relate mainly to the increase in the size of the amended leisure building, and the change of materials from that previously approved in terms of its impact on the landscape and the visual amenity of the site and surrounding area. Tourist facilities are assessed under policy INF10 of the South Derbyshire Local Plan Part 1

2016.

It is considered that the development would be located in an area where the existing identified needs for this type of tourism accommodation are not yet met by existing facilities (on alternative sites) and would provide a nominal contribution to employment in the area. Taking into consideration these points, it is considered the principle of development is acceptable, subject to a condition restricting the use of this facility for customers staying in the lodges and their guests only, and not for general public or community use.

It is concluded that the principle of the development of a leisure building for tourist development is acceptable, subject to the assessment of the impact of the changes in the development between that previously approved under DMPA/2020/0226 and this scheme which are assessed below.

Impact of the development on landscape character, biodiversity and heritage assets

It was identified, at the time of the site visit, that operations at the site had taken place for phase two, which has changed the essential construction of the 8 lodges, with these now being constructed of permanent materials, with a breeze block internal construction, and cladded in timber. The construction of the leisure building however, has not yet taken place, and therefore the land is still part of what was the arable field, which sits adjacent to the main access drive into the site and to the west of the second phase of lodges.

The wording of policy INF10 is as follows:-

'A. Tourism development, including overnight accommodation and visitor attractions, will be permitted: i) within or adjoining the urban area or the Key Service Villages or; ii) in other appropriate locations where identified needs are not being met by existing facilities.'

B. The District Council will seek to maximise opportunities to deliver new or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate.

C. In all cases the District Council will expect new tourism development to be i) provided through the conversion or re-use of existing buildings or; ii) accommodation of a reversible and temporary nature, or iii) sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all other relevant policies in the Local Plan.

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

Unlike the previously approved 'caravans', the leisure building was always a permanently constructed building with the creation of the pool, and the more physical construction element of the building, so the previously approved building had to comply with aspect C.iii).

In terms of aspects of C.iii), the proposal is not significantly different in construction terms to the previously approved building. The construction with the use of stone does, perhaps, give it a greater degree of permanence than the timber constructed leisure building approved under DMPA/2020/00226, although it would seem that the material on the inside of the timber cladding would have been of breeze block construction.

In sustainability terms, there is little difference between the principles of the approved scheme and the proposed scheme. The reduction in the provision of associated parking to be closer to that amount previously approved helps in being of similar assessment. The appearance of the leisure building will be different to that of the approved scheme by virtue of the increase in size, therefore having a greater impact on the wider landscape, being more prominent. This is assessed further below under aspect D, but it is concluded that the proposal is comparative to the assessment of the approved scheme under aspect C.iii of INF10.

In relation to aspect D of the policy, an assessment of the effects of the revised scheme has to be assessed against impacts on local landscape, natural environment and cultural heritage issues.

The increase in the size of the leisure building over the previously approved scheme is material. This new building increases the amount of floorspace of the development within the field and increases the urbanisation of the development. The change of materials from the approved scheme would also provide a differentiation between the timber and glazing look of the whole of the development, with the use of the stone in part, rather than wholly timber clad to match the lodges.

A judgement has to be made about whether or not this is significantly detrimental in terms of its impact on the local landscape and the setting within the countryside. There are views from a public footpath approximately 100m to the west of the site.

The changes to the materials for the leisure building which is a different finish to that of the 16 lodges, and the increase in size of the floorspace of the building, would result in an overall greater degree of harm to the visual amenity of the site within the countryside location. The differences would be noticeable and would result in a certain element of a jarring on the eye. The proposed leisure building, in itself, would not be unattractive. The eaves height and ridge heights are similar to that approved. There would be less glazing than the approved building, which gives the impression of a proposed building with slightly more bulk and permanence.

A planning judgement needs to be made, on balance, as to whether these differences amount to a new development which is now unacceptable in terms of its impact on the local landscape, or would have undue effects on the overall character of the landscape. Whilst it is concluded that there are some more detrimental impacts from the revised scheme, it is considered that the impacts are not in themselves sufficiently detrimental as to result in a refusal of the scheme, or an unduly significant harm caused to the appearance of the development in the landscape, above that caused by the existing approved developments impact. The passer by in the car, or the users of the public network would notice the difference, but, it is considered that there would not be a greater degree of significant harm. The landscape scheme can soften the visual impacts of the development and improve the biodiversity at the site.

On this basis, it is therefore concluded that the detrimental impacts are not so great as to result in an unacceptable impact on local landscape character. The proposal is therefore considered to comply with policy BNE1, BNE7 and the relevant sections of policy INF10 of South Derbyshire Local Plan Part 1 2016.

In terms of impacts on cultural heritage, the site is not visible from any of the listed buildings, Bretby Castle, the Scheduled Ancient Monument, Bretby Hall or the registered park and garden. A Heritage Assessment supports the application. The Conservation Officer reviewed the proposals and considered that there are likely to be no impacts, harmful or otherwise to the identified designated heritage assets and their setting. It is therefore considered that, in all cases, their settings, insofar as settings contribute towards their significance, would be preserved owing to the intervening topography and landscape screening limiting any visual impacts.

The scale, massing and impacts of the scheme are comparable to those from the previously approved scheme. There are no harmful impacts on the setting of heritage assets to the south. There is no intervisibility from the heritage assets in Bretby including the conservation area, various listed buildings and the parkland. The existing settings would be preserved. On this basis, the proposal would comply with policy BNE2 of the South Derbyshire Local Plan Part 1 2016 and policy BNE10 of the South Derbyshire Local Plan Part 2 2017.

In relation to the issues around the natural environment and biodiversity issues, the applicant has carried out a Preliminary Ecological Assessment, and a Landscape and Ecological Management Plan. This has been assessed by Derbyshire Wildlife Trust, who note that the proposed development does seem to be similar to that scheme approved in 2020, and this scheme as amended does not raise any additional concerns about the proposals impact. The scheme should therefore be implemented in accordance with the submitted plan as previously agreed and supported by the updated Landscape scheme agreed by the Landscape Officer to improve the biodiversity at the site. The proposal is

thereby capable of complying with policy BNE2 of the South Derbyshire Local Plan Part 1 2016.

Impact of the development on highway safety

The County Highways Authority (CHA) have reviewed the submission and do not object subject to conditions and informatives. The conditions sought include ensuring that the building would only be used for leisure in connection with the existing leisure and tourism business on site, as stated in the Design and Access Statement, and that the visibility splays should be 2.4m x 160m with gates set back into the site from the highway by 10m, which have now been provided, and that all parking is to be provided on a prior to first use basis, and that this must be maintained free of obstruction and retained for the lifetime of the use.

The amount of car parking provided for the leisure building has been reduced to be closer to that amount previously used, so as not to be excessive. Most residents would walk to the leisure building given the short distances, but there is likely to be some need for staff parking for maintenance and cleaning, although in the times between the customers being on the site, cleaning and maintenance vans could also use the spaces at the lodges.

It is therefore considered that the proposal would not result in any detrimental impact on highway safety and comply with policy INF2 of the South Derbyshire Local Plan Part 1 2016.

Impact of the development on surface water management

The site is located within flood zone 1 of the flood mapping system. There is no concern with regard to impact on flooding. There are however concerns raised with regard to ensuring that surface water run off would ensure that this is done through soakaways and would not result in concerns of increased run off, above greenfield rates, and that the impacts of the additional urban roofspace and hard surfacing can be managed without concerns.

The applicant has responded to concerns raised by the Local Lead Flood Authority by providing additional supporting information. This has now been assessed by the LLFA, and found to be acceptable in principle. The LLFA consider that it would be reasonable to impose appropriate conditions to ensure that the scheme is implemented to ensure that there are no concerns with surface water run off from the site affecting land outside the site or that there would be an increase in greenfield run off rates.

It is therefore concluded that the proposal is capable of complying with policy SD3 of the South Derbyshire Local Plan Part 1 2016.

Conclusions

As the development is in compliance with relevant local and national planning policies and guidance, it is recommended that the application is approved subject to conditions and informatives.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

Reason: To conform with Section 91 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(s)/drawing(s) ref;

Application Forms received 23rd August 2021;
Ecological Impact Assessment V1 received 6th September 2021;
Package Plant Installation Guidelines received 6th September 2021;
Leisure Block Materials Schedule received 6th September 2021;
Package Plant Owners Handbook received 6th September 2021;
Package plant Details received 6th September 2021;
Leisure Building Elevations Drawing No.18 received 6th September 2021;
Planning, Design and Heritage Statement received 6th September 2021;
Landscape Visual Impact Assessment received 6th September 2021;
Location Plan received 6th September 2021;
Leisure Block Visuals received 6th September 2021;
1 in 30 year storm micro drainage received 28th February 2022;
Soil Infiltration Report received 28th February 2022;
Leisure Block Site Plan drawing No.19 C received 28th February 2022;
Drainage Construction Details drawing 108 rev P1 received 28th February 2022;
Greenfield Run Off rates received 28th February 2022;
Surface Water Drainage received 28th February 2022;
Management Schedule for Surface Water Drainage received 28th February 2022;
Proposed Drainage Layout and External Levels received 28th February 2022;
1 in 1000 year storm micro drainage received 28th February 2022;
Landscape Proposals GL0797 05C received 28th February 2022;
Flood Risk Assessment received 28th February 2022;
1 in 100 year storm micro drainage received 28th February 2022;
Landscape and Ecological Management Plan Rev A received 28th February 2022;
1 in 1 year storm micro drainage received 28th February 2022;
Maintenance Schedule received 28th February 2022;
Trial Pit Logs received 28th February 2022;
Economic Benefit Statement received 10th March 2022; and
Leisure Building Landscape Plan GL0797 05D received 4th April 2022.

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The development shall take place accordance with the drainage proposals outlined within:
 - a. PRP. 04/02/2022. Flood Risk Assessment. Rev A.
 - b. PRP. 27/01/2022. 1 in 1 year storm calcs. Rev 1
 - c. PRP. 27/01/2022. 1 in 30 year storm calcs. Rev 1
 - d. PRP. 27/01/2022. 1 in 100+40% CC calcs. Rev 1
 - e. PRP. 27/01/2022. 1 in 100 calcs. Rev 1
 - f. PRP. 25/02/2022. Proposed Drainage Layout and External Levels. Rev P
 - g. PRP. 01/2022. MANAGEMENT SCHEDULE FOR SURFACE WATER DRAINAGE DURING CONSTRUCTION. Rev 1
 - h. PRP. 15/03/2022. 81270 - Maintenance Schedule. Rev1
 - i. Golby + Luck Landscape Architects. 29/03/2022. Leisure building landscape proposals. Rev D
 - j. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015). Any agreed amendments shall be submitted to the local planning authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the local planning authority for reference.

4. Prior to the first use of the development hereby approved, the parking and manoeuvring space shown on drawing ref: Proposed Plans Site Plan 19 C as received by the local planning authority on 28th February 2022, shall be laid out and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interests of providing sufficient on site parking for the development and in the interests of highway safety.

5. Prior to the first use of the development hereby approved, 1no. electric vehicle charging point shall be provided. The point of installation and specification of the charging point to be provided shall be submitted to the local planning authority for approval in writing on a prior to first use basis. The charging point shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. The electric vehicle charging point shall be provided in accordance with the stated criteria and approved details prior to the first use and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of promoting sustainable transport method uptake and to support a carbon zero district as per Climate Change Act and South Derbyshire Council Supplementary Design Guide.

6. The development of the leisure building hereby approved shall solely be used as an ancillary facility to the existing Knights Lodge tourism accommodation in situ and shall solely be used by customers residing in the tourism accommodation on site and guests of those customers. A register shall be kept of customers and their guests using the facility, their lodge/cabin numbers and duration of stay at the cabins and made available for viewing upon the request of the local planning authority. The development shall not be for general public use.

Reason: To ensure that the site is solely used for the purposes of tourism and leisure in connection with the National Forest Vision and in the interests of highway safety.

7. Prior to the first use of the development hereby approved, 1no. secure cycle parking facility shall be provided. The specification and siting of this shall be submitted to the local planning authority for approval in writing. The approved scheme shall be implemented on site and maintained in good repair thereafter for the lifetime of the development.

Reason: In the interests of promoting sustainable transport measures and to reduce air pollution district wide.

8. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2019-12(01) produced by Ecolocation dated 16th January 2020. The measures shall be implemented and retained as such thereafter.

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

9. The facing and roofing materials and fenestration to be used shall follow the details as described within the submitted Materials Schedule Drawing No. 21. The stone to be used on the main face of the building shall be constructed using irregular patterning within the mortar layers and irregular sizes of stone. The development shall be constructed using the approved facing, roofing and fenestration materials.

Reason: In the visual interest of the building and the surrounding countryside to avoid straight horizontal lines across the plane of the face of the walls to replicate the impression of a dry stone wall, and given more of a rural appearance to blend in with the countryside location.

10. No external lighting shall be installed until details of the intensity, angling, shielding and the area of spread of the lighting has been submitted to the local planning authority for approval in writing. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.

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

11. The approved Landscaping Scheme GL0797 05D, shall be implemented in full in the first planting season following the occupation of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with the approved scheme and timetable; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the local planning authority gives written consent to any variation.

Reason: In the interests of protecting the rural area and landscape character area in which the site is situated and to enhance biodiversity gain.

12. The infiltration pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the local planning authority. The pond shall be managed and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage system is secured for the future.

13. Prior to the first use of the leisure building, a verification report carried out by a qualified drainage engineer shall be submitted to and approved by the local planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753.

Informatives:

- a. Pursuant to Section 163 of the Highways Act 1980, measure shall be taken to ensure that surface water run off from within the site is not permitted to discharge onto the highway. 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.
- b. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicants responsibility to ensure that all reasonable steps (eq. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- c. If external lighting is proposed, you are advised that it should be by way of low level bollards and bulkhead lighting only.
- d. 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.

C. No part of the proposed development shall be constructed within 5-8m 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. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan.

H. 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.

I. 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, 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.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (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 + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

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 100 year 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 100% probability annual rainfall event and the 1% probability annual 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

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual 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 the 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 the 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.

K. 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% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – 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.

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

M. 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.

Item No. 1.6

Ref. No. [DMPA/2021/1209](#)

Valid date: 07/09/2021

Applicant: Dean Wilshee

Agent: Marrons Planning

Proposal: **Retrospective application for the erection of 8 holiday lodge buildings (application DMPA/2019/1305 relates) on Land at Knights Lane, Bretby, Burton On Trent, DE15 0RT**

Ward: Repton

Reason for committee determination

This item is called to Committee by Councillor Southerd.

Site Description

The site sits on the south east side of Knights Lane. This is a fairly straight road which runs from Winshill towards Repton Hollows. The land sits just below a ridge which then runs down to the applicant's property and other dwellings in Bretby village. The field was previously typical arable agricultural land. The site is set on a slope which runs down towards the Trent valley in Repton and Newton Solney. There are extensive views north and north west up towards the south of the Peak District in the distance and Nottinghamshire to the north east.

There is a substantial thick hedgerow along the boundary of the field where the first phase of the lodges are located, This is set approx. 1m higher than the road level, and there are glimpsed views of the existing lodges on the hillside. The existing vehicular entrance for the lodges has been provided in phase 1 with stone entrance wall as the driveway curves round to the left to a set of metal gates and fencing with an electrically operated gate system.

The first phase is completed with the 8 cabins erected on site. There is temporary fencing between phases 1 and 2, as the second phase is already well under construction with this post facto scheme for the permanent buildings. At the time of the site visit, most were being constructed with the breeze blocks showing prior to the timber cladding being added.

The proposal

The proposal is for the retrospective erection of the 8 permanent holiday lodges, erected as described within the application forms. The proposal uses the same access and entrance as the first phase which is already erected. The differences between the approved scheme and this scheme is assessed below.

Applicant's supporting information

The applicant has submitted a raft of documents and information in support of this retrospective proposal including a Landscape and Ecological Management Plan, a Design and Access Statement, an Ecological Appraisal, a Flood Risk Assessment, a Noise Mitigation Strategy, a Drainage Strategy and Soil Infiltration Report, a Business Plan to indicate economic benefits, and associated plans to describe the proposed development.

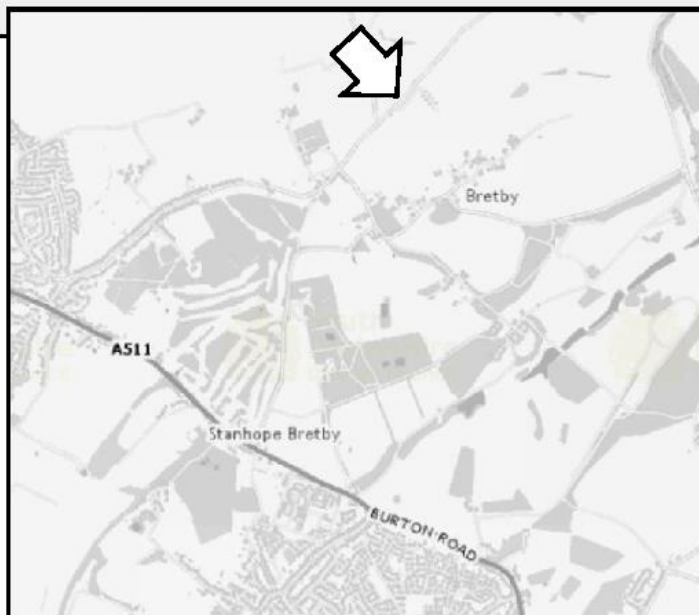
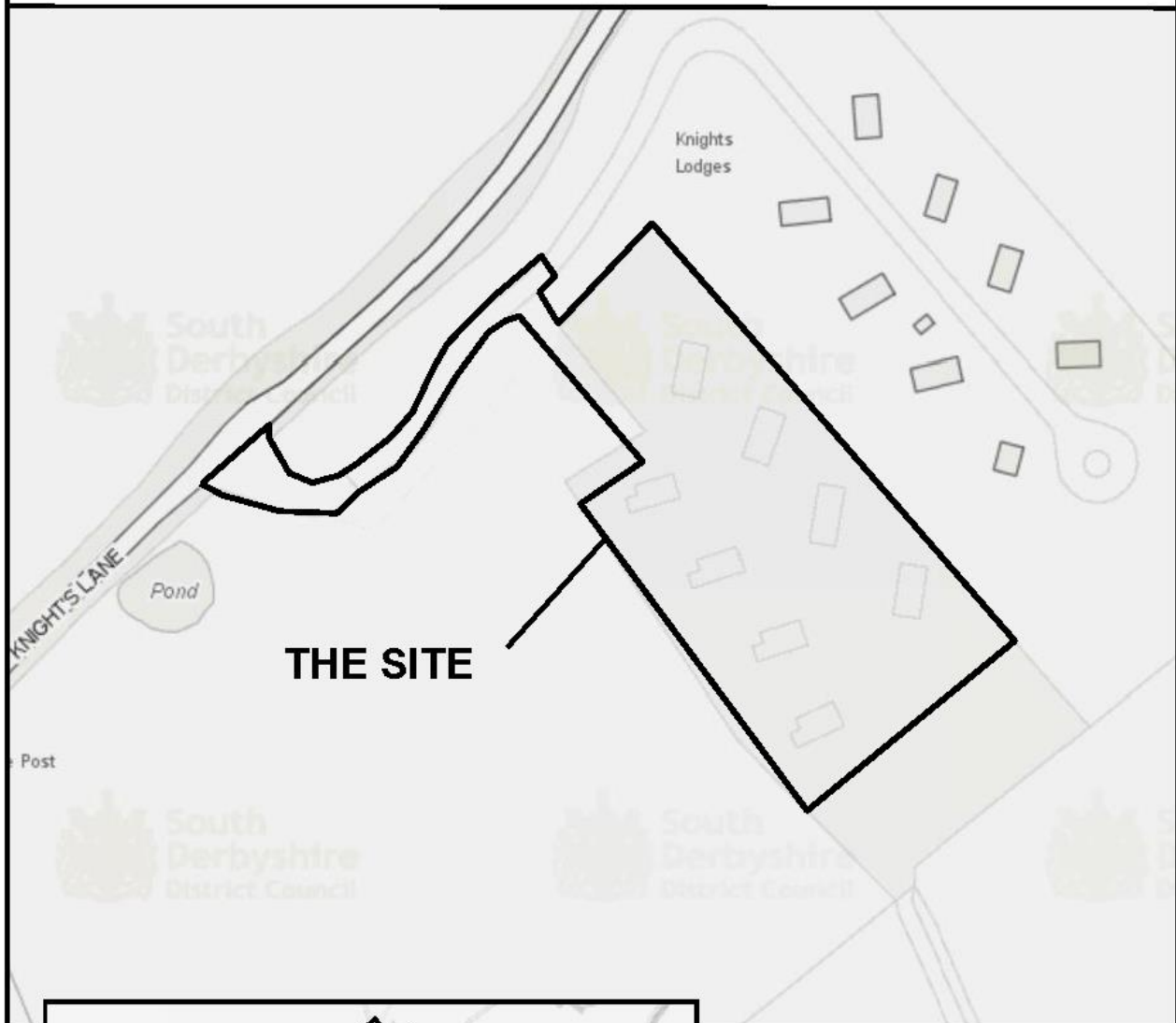
Relevant planning history

9/2017/1402 Erection of 8 holiday cabins and associated access and parking facilities (phase 1). Approved.

DMPA/2019/1305 Erection of 8 holiday cabins (Phase 2). Approved.

DMPA/2020/0226 Erection of leisure building for the 16 holiday cabins in phase 1 and 2. Approved.

DMPA/2021/1209 – Land at Knights Lane, Bretby, Burton On Trent, DE15 0RT



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South Derbyshire District Council. LA 100019461.2020

DMPA/2020/0933 Retention of plant room. Approved.
DMPA/2020/0395 Revision to phase 1 layout. Pending.
DMPA/2021/1196 Erection of leisure building. Pending.

Responses to consultations and publicity

The County Highway Authority has noted that the scheme does not differ to any great significant degree in highway terms from that which was approved under application DMPA/2019/1305. The same conditions can therefore be imposed for this development. There is no significant detrimental impact on the highway network or highway safety.

The Local Lead Flood Authority had initial concerns with the proposal and requested a significant amount of additional information and clarification regarding the surface water drainage, combining it with comments regarding the Leisure building. The applicants have updated the drainage system for the site to incorporate some improvements to the surface water run off scheme. The details as submitted are considered satisfactory for the revised lodges scheme, and recommend that the drainage scheme be implemented in accordance with the submitted scheme, and verified independently. On this basis, the scheme is acceptable and is agreed.

Derbyshire Wildlife Trust has noted that the scheme is similar to that previously been presented. The comments therefore remain the same as suggested for DMPA/2019/1305. The proposal would not result in any impact on habitats or species of substantive nature conservation value. The previous condition imposed can be re-imposed and the development carried out in accordance with the Landscape and Ecological Management Plan and appropriate tree planting proposals.

Severn Trent Water has no comments regarding the proposed sewer treatment plant. There are no comments on the surface water scheme, and it is advised to contact the LLFA to ensure acceptable disposal methods or flow rates. The applicant will be required to make a formal application to them under S106 of the Water Industry Act for use or re-use of any sewer connections to the public sewers. An informative is suggested to be imposed about public sewers.

The Environmental Health Officer has noted that the submitted information is light on details about how the specific requirements of the previous condition imposed will be achieved. Nevertheless, this is not considered a particular problem given that the sub sections of that condition are explicit requirements which could be retained as conditions, and do not require a written Noise Mitigation Scheme. It is noted that the report states that no acoustic screening is required. Given the remote location and relatively limited noise from the hot tubs, it is not considered that this is therefore essential.

The Landscape Officer made some comments with regard to the proposed revisions. These amendments have been made and the proposed landscape scheme is now considered to be acceptable, and should therefore be implemented.

No other comments have been received to the consultation process.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1) – S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF10 (Tourism Development)
- Local Plan Part 2 (LP2) – SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows), and BNE10 (Heritage)

The relevant local guidance is:

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

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Forest Vision
- Action Plan for Sustainable Tourism
- The Landscape Character of Derbyshire

The relevant legislation is:

- The Town and Country Planning Act 1990
- Conservation of Habitats and Species Regulations 2017 (as amended)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of the tourist development – the erection of 8no. holiday chalets;
- Impact of the development on landscape character, biodiversity and heritage assets;
- Impact of the development on highway safety: and
- Impact of the development on surface water management.

Planning assessment

Principle of the tourist development – the erection of 8no. holiday chalets

The principle of the erection of the 8 lodges, identified as being within the definition of 'caravans' was approved as a tourist led development as part of the scheme DMPA/2019/1305 in January 2020. That approved scheme was intended to be the same type of construction of development as the first phase of 8 approved in 2017. These are holiday lodges, which are prefabricated and brought to the site and assembled, and put in place on the site, usually with skirting around the base, but otherwise with little physical connection to the ground other than electrics and water facilities. The impacts of the differences are assessed below.

As indicated above, the principle for tourist facilities has already been approved at the site in 2020. The proposal still forms part of the portfolio for the Hosesasons Autograph Collection. The applicant has provided evidence that the scheme would benefit the local economy in additional tourist spending within the district and surrounding areas. There are high occupancy rates in the existing lodges in phase 1. The scheme would continue to provide local jobs for cleaners and maintenance staff. Similarly to the approved scheme, there is expected to be ongoing demand for the larger units provided by this application. This is likely to have a greater impact than the approved phase 2 scheme on the basis of providing a greater amount of on site accommodation, and therefore more people visiting the site and surrounding tourist facilities and commercial businesses and therefore increased economic spending in the local economy.

The principle of the scheme for tourist development was considered acceptable in 2020. There are some differences in terms of the assessment of this scheme, from that under the phase 2 approved scheme, which need to be assessed below. Tourist facilities are assessed under policy INF10 of the South Derbyshire Local Plan Part 2 2016.

It is concluded that the principle of the development of 8 lodges for tourist development is acceptable, subject to the assessment of the impact of the changes in the development between that previously approved under DMPA/2019/1305 and this scheme.

Impact of the development on landscape character, biodiversity and heritage assets

It was identified that operations at the site had taken place for phase two, which has changed the essential construction of the 8 lodges, with these now being constructed of permanent materials, with a breeze block internal construction, and cladded in timber. The location of the 8 units has changed to a minor degree in terms of their layout, not being located in the exact positions of the 8 approved as part of the 2019 approval. Generally though there are still 4 units situated either side of a central vehicular access. The 3 bed 'Lancelots' are located on the north eastern side of the access drive and the two bed 'Gallahads' are located on the south western side.

There has been a material increase in the size of the units from 65sqm of internal floorspace for the approved scheme of 8 units, with some 10sqm approx external on the decking. The units are now approx. 107sqm for the two beds with 16sqm of outside space, and 110sqm with 33sqm of outside space for the three beds. There are spaces provided for hot tubs and sitting out areas.

The change in the assessment of this development, comes in terms of the relation to the changes from being assessed as caravans, and therefore lodges which are capable of being disassembled, and removed from the site, and being permanently constructed tourist lodges, as well as the increase in the sizes of the cabins that have already been constructed on the site in this retrospective development.

The wording of policy INF10 is as follows:-

'A. Tourism development, including overnight accommodation and visitor attractions, will be permitted: i) within or adjoining the urban area or the Key Service Villages or; ii) in other appropriate locations where identified needs are not being met by existing facilities.'

B. The District Council will seek to maximise opportunities to deliver new or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate.

C. In all cases the District Council will expect new tourism development to be i) provided through the conversion or re-use of existing buildings or; ii) accommodation of a reversible and temporary nature, or iii) sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all other relevant policies in the Local Plan.

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

The previous scheme was assessed under the above policy and concluded to be acceptable in principle. The difference with this scheme is that it cannot be considered under section C ii) as these buildings are not reversible and temporary in nature. Previously, the lodges were assessed as 'caravans', and therefore Cii) was applicable. The principle must now be assessed against iii) only in part C.

The buildings have been constructed in breeze block walls with timber cladding around the outside. It is a difficult judgement to indicate that the development would qualify under the meaning of being 'sustainable' in terms of the policy. Breeze blocks are a composite material using natural resources as well as recycled materials. It would be correct to say, however, that the permanent construction of the buildings is likely to give a longer lifespan for the buildings than would be the case for a typical prefabricated on site, put together, temporary 'caravan', potentially in the region of 50-60 years, rather than 10-20 years, resulting in a more sustainable development in terms of building fabric over a longer term. The issue around locational sustainability relates to the issues around how accessible the site is to access for public transport. In this regard, this development would be no different to that of the approved scheme. Most tourists would access the site by private vehicle, and at this location, there is little opportunity to get to the site by public transport.

In terms of their design, the appearance of the lodges would look similar to those approved under the 2019 scheme with the external timber cladding. In terms of their overall height, they are similar along with the rectangular shape and centrally pitched roof. The development has used the contours of the site to sit the lodges within the hillside and setting them down with the provision of small retaining walls

on their southern side in places.

In conclusion, therefore, when compared with the approved scheme, it would be difficult to conclude that there is a materially greater detrimental impact in terms of the developments sustainability and design, and therefore complies with section C of policy INF10.

In relation to aspect D of the policy, an assessment of the effects of the revised scheme has to be assessed against impacts on local landscape, natural environment and cultural heritage issues.

In terms of impacts on local landscape, the scheme has been sculpted to be set into the hill across the significant slope down to the north west. The road is approximately 1m lower than the lowest section of the field. There is a significant and substantial hedgerow on the north west boundary with the road. With the set down of the road, there are only glimpsed views of the site when driving past in a car, even given the higher level of the lodges.

The increase in the sizes of the lodges is material. This increases the amount of development within the field and increases the urbanisation of the development. A judgement has to be made about whether or not this is significantly detrimental in terms of its impact on the local landscape and the setting within the countryside. There are views from a public footpath approximately 100m to the west of the site. The larger cabins as part of phase 2, would be seen in the context of being a new tourist development within the countryside; the principles of which have already been established through the approval of the 16 units under the 2017 and 2020 approvals, and therefore it is reasonable to conclude that there would be a minor additional detrimental impact on the appearance of the development within the countryside, in comparison to the approved phase 2 scheme, based on the larger size of the cabins, and the larger outdoor sitting areas accommodating the hot tubs and decking. The agreed landscape scheme would, however, help to reduce the visual impact of the lodges over time as the planting matures, lessening the visual impact of the lodges.

It is therefore concluded that the detrimental impacts are not so great as to be significantly different or fundamentally more harmful, that results in an unacceptable impact on local landscape character. On this basis, it is concluded that the proposal is acceptable when assessed in the planning balance. The proposal is therefore considered to comply with policy BNE1, BNE7 and the relevant sections of policy INF10 of South Derbyshire Local Plan Part 1 2016.

In terms of impacts on cultural heritage, the scale, massing and impacts of the scheme are comparable to those from the previously approved scheme. There are no harmful impacts on the setting of heritage assets to the south. There is no intervisibility from the heritage assets in Bretby including the conservation area, various listed buildings and the parkland. The existing settings would be preserved. On this basis, the proposal would comply with policy BNE2 of the South Derbyshire Local Plan Part 1 2016 and policy BNE10 of the South Derbyshire Local Plan Part 2 2017.

In relation to the issues around the natural environment and biodiversity issues, the applicant has carried out a Preliminary Ecological Assessment, and a Landscape and Ecological Management Plan. This has been assessed by Derbyshire Wildlife Trust, who note that the proposed development does seem to be similar to that scheme approved in 2020, and this scheme as amended does not raise any additional concerns about the proposals impact. The scheme should therefore be implemented in accordance with the submitted plan as previously agreed and as updated by the approved landscape scheme. The proposal is thereby capable of complying with policy BNE2 of the South Derbyshire Local Plan Part 1 2016.

Impact of the development on highway safety

The Highway Authority has noted that the development would not be materially different to the approved phase 2 scheme, and the submitted plans show adequate car parking arrangements for each of the proposed holiday lodges. On this basis, the same conditions and informatives can be added to this proposal, as have been imposed on the previously approved scheme. The proposal therefore complies with policy INF2 of the South Derbyshire Local Plan Part 1 2016.

Impact of the development on surface water management

The site is located within flood zone 1 of the flood mapping system. There is no concern with regard to impact on flooding. There are however, concerns raised with regard to ensuring that surface water run off would ensure that this is done through soakaways, and would not result in concerns of increased run off, above greenfield rates, and that the impacts of the additional urban roofspace and hard surfacing can be managed without concerns.

The applicant has responded to concerns raised by the Local Lead Flood Authority by providing additional supporting information. This has been assessed by the LLFA and considered acceptable in principle. It is recommended that appropriate conditions be imposed to ensure that the drainage scheme is carried out in accordance with the submitted scheme and independently verified. The proposal is therefore capable of complying with policy SD3 of the South Derbyshire Local Plan Part 1 2016.

Conclusions

As the development is in compliance with relevant local and national planning policies and guidance, it is recommended that the application is approved subject to conditions and informatives.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref;

Planning Design and Access Statement received 2nd August 2021;
2 bed lodge floor plans received 2nd August 2021;
3 bed lodge floor plans received 2nd August 2021;
Package Plant details received 7th September 2021;
Package Plant guidelines received 7th September 2021;
Soakaway Details received 7th September 2021;
Covering Letter received 7th September 2021;
Noise Mitigation Strategy received 7th September 2021;
3 bed lodge elevations received 7th September 2021;
2 bed lodge elevations received 7th September 2021;
Proposed Drainage Details received 7th September 2021;
Soil Infiltration Report 2 received 7th September 2021;
Package Plant Handbook received 7th September 2021;
Landscape and Visual Impact Assessment received 7th September 2021;
Landscape and Ecological Management Plan received 7th September 2021;
Ecological Impact Assessment received 7th September 2021;
Ecolocation letter received 7th September 2021;
Location Plan received 7th September 2021;
Application Form received 7th September 2021;
Proposed Site Levels received 17th December 2021;
Block Plan-13b received 17th December 2021;
Trial Pit Logs received 28th February 2022;
1 in 30 year storm micro drainage received 28th February 2022;

Drainage Construction Details received 28th February 2022;
Maintenance Schedule received 28th February 2022;
1 in 1000 year storm micro drainage received 28th February 2022;
Greenfield run off rates received 28th February 2022;
Infiltration rates received 28th February 2022;
Materials Schedule received 28th February 2022;
Management Schedule for surface water drainage received 28th February 2022;
1 in 1 year storm micro drainage received 28th February 2022;
Flood Risk Assessment received 28th February 2022; and
Site Plan 14b received 28th February 2022;
Economic Benefits Statement received 10th March 2022; and
Tree Planting Proposals GL0797 01H received 29th March 2022.

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the lodges hereby approved shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the local planning authority, and:
 - i. the buildings shall not be occupied as a person's sole, or main place of residence;
 - ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
 - iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority.

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

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

3. The facing and roofing materials and fenestration details, to be used in the construction of the external walls and roof of the cabins should be carried out in accordance with the approved details and Materials Schedule.

Reason: To safeguard the appearance of the buildings and immediate rural area.

4. The approved Tree Planting Proposals plan GL0797 01H, shall be implemented in full in the first planting season following the first occupation of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with the approved scheme and timetable; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the local planning authority gives written consent to any variation.

Reason: In the interests of protecting the rural area and landscape character area in which the site is situated and to enhance biodiversity gain.

5. The development shall take place accordance with the drainage proposals outlined within:
 - a. PRP. 04/02/2022. Flood Risk Assessment. Rev A.

- b. PRP. 27/01/2022. 1 in 1 year storm calcs. Rev 1
- c. PRP. 27/01/2022. 1 in 30 year storm calcs. Rev 1
- d. PRP. 27/01/2022. 1 in 100+40% CC calcs. Rev 1
- e. PRP. 27/01/2022. 1 in 100 calcs. Rev 1
- f. PRP. 25/02/2022. Proposed Drainage Layout and External Levels. Rev P
- g. PRP. 01/2022. MANAGEMENT SCHEDULE FOR SURFACE WATER DRAINAGE DURING CONSTRUCTION. Rev 1
- h. PRP. 15/03/2022. 81270 - Maintenance Schedule. Rev1
- i. Golby + Luck Landscape Architects. 29/03/2022. Leisure building landscape proposals. Rev D
- j. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015). Any agreed amendments shall be submitted to the local planning authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the local planning authority for reference.

- 6. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2019-12(01) produced by Ecolocation dated 9th January 2020. The measures shall be implemented and retained as such thereafter.

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

- 7. The development should be carried out in accordance with the submitted Tree Planting Proposals drawing GL0797 01H and the Landscape & Ecological Management Plan Ref GL0797 prepared by Golby + Luck dated 11th May 2020.

Reason: In the interests of the biodiversity of the site and surrounding area.

- 8. No external lighting shall be installed until precise details of the intensity, angling, shielding and the area of spread of the lights have been submitted to the local planning authority for approval in writing. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.

Reason: In the interests of the visual amenity of the site and surrounding area and to limit light pollution in this countryside location.

- 9. Notwithstanding the approved plans, as referenced in condition 1 of this approval, prior to the occupation of the development, space shall be provided within the site edged red for the parking and manoeuvring of 2no. vehicles per cabin, laid out and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interests of highway safety and to ensure sufficient parking for the development within the defined site boundary.

- 10. Prior to the occupation of the development hereby approved, space shall be provided within the site edged red for the parking and manoeuvring of service and delivery vehicles to ensure that they can enter and leave the site in a forward gear.

Reason: In the interests of highway safety.

- 11. The submitted Noise Mitigation Scheme shall be implemented as approved. This scheme as a minimum should include measures to ensure:
 - i) a quiet site policy to be enforced between 10pm and 8am;
 - ii) hot tubs, should be switched off and vacated by 11pm and that they are all enclosed according to a design to be provided with details submitted to the local planning authority for approval prior

to first occupation; and

iii) no external music to be permitted or facilitated.

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

Reason: To avoid undue disturbance to adjoining property and provide guidance to proper site management in the interests of safeguarding amenity.

12. The infiltration pond should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the local planning authority. The pond shall be managed and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

13. Prior to the first occupation of the lodges, a verification report carried out by a qualified drainage engineer shall be submitted to and approved by the local planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753.

Informatives:

- e. Pursuant to Section 163 of the Highways Act 1980, measures shall be taken to ensure that surface water run-off from within the site shall not be permitted to discharge onto the highway. 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.
- f. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicants responsibility to ensure that all reasonable steps (eq. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- g. If external lighting is proposed, you are advised that it should be by way of low level bollards and bulkhead lighting only.
- h. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- i. 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.

C. No part of the proposed development shall be constructed within 5-8m 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. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan.

H. 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.

I. 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, 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.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (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 + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

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 100 year 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 100% probability annual rainfall event and the 1% probability annual 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

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual 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 the 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 the 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.

K. 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% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – 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.

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

M. 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.

Item No. 1.7

Ref. No. [DMPA/2022/0301](#)

Valid date: 01/03/2022

Applicant: Lisa Brown

Agent: Planning & Design Practice Ltd

Proposal: **Change of use of existing residential annexe to a separate dwelling together with single storey and first floor extensions and the erection of a detached garage with living accommodation over at The Old Rectory, Church Road, Egginton, Derby, DE65 6HP**

Ward: Etwall

Reason for committee determination

The application is reported to Planning Committee as the applicant is an elected Councillor (Councillor Lisa Brown).

Site Description

The site is presently part of the garden of the Grade II Listed property Benby House Farmhouse, more latterly known as The Old Rectory. It is situated on the edge of the village (outside of the settlement boundary) although in close proximity to the village church (also a listed structure, Grade I) and a group of six dwellings known as Rectory Mews.

The site, which is within Flood Zone 3, is generally flat and affords a level of privacy, mature vegetation limiting views from Church Road and a 2m high boundary wall limiting views from the public footpath Egginton FP18 to the south west of the site. The site at present is home to 'The Pavilion', a detached single-storey ancillary building - approved in 2014.

The proposal

The proposal is to alter the presently detached, flat roofed ancillary building (that known as The Pavilion) by way of a first floor and single storey east side extension with balcony above (and a smaller balcony to the south), thereafter severing its dependency on The Old Rectory - i.e. it would become an unconnected planning unit. Plans show it would have its own garden space enclosed with some estate type railings and a new detached garage/car port with living accommodation above and a terrace to the east.

Applicant's supporting information

The applicant has submitted a Flood Risk Assessment and a Planning, Design & Access statement to where it sets out the evolution of The Pavilion, assesses impacts on the heritage context and considers the proposals against the relevant policy framework.

Relevant planning history

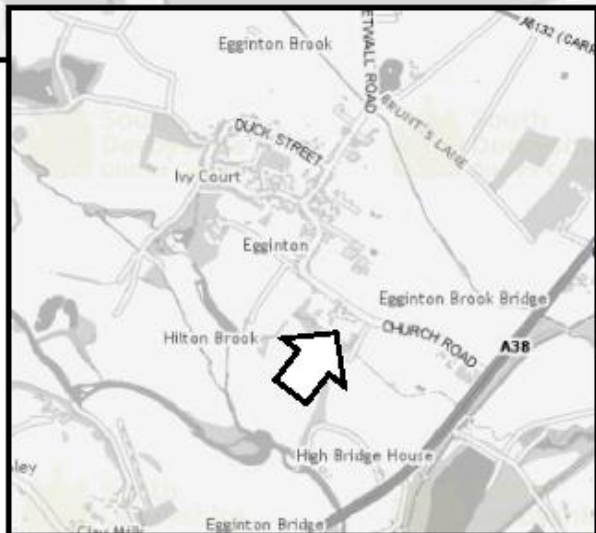
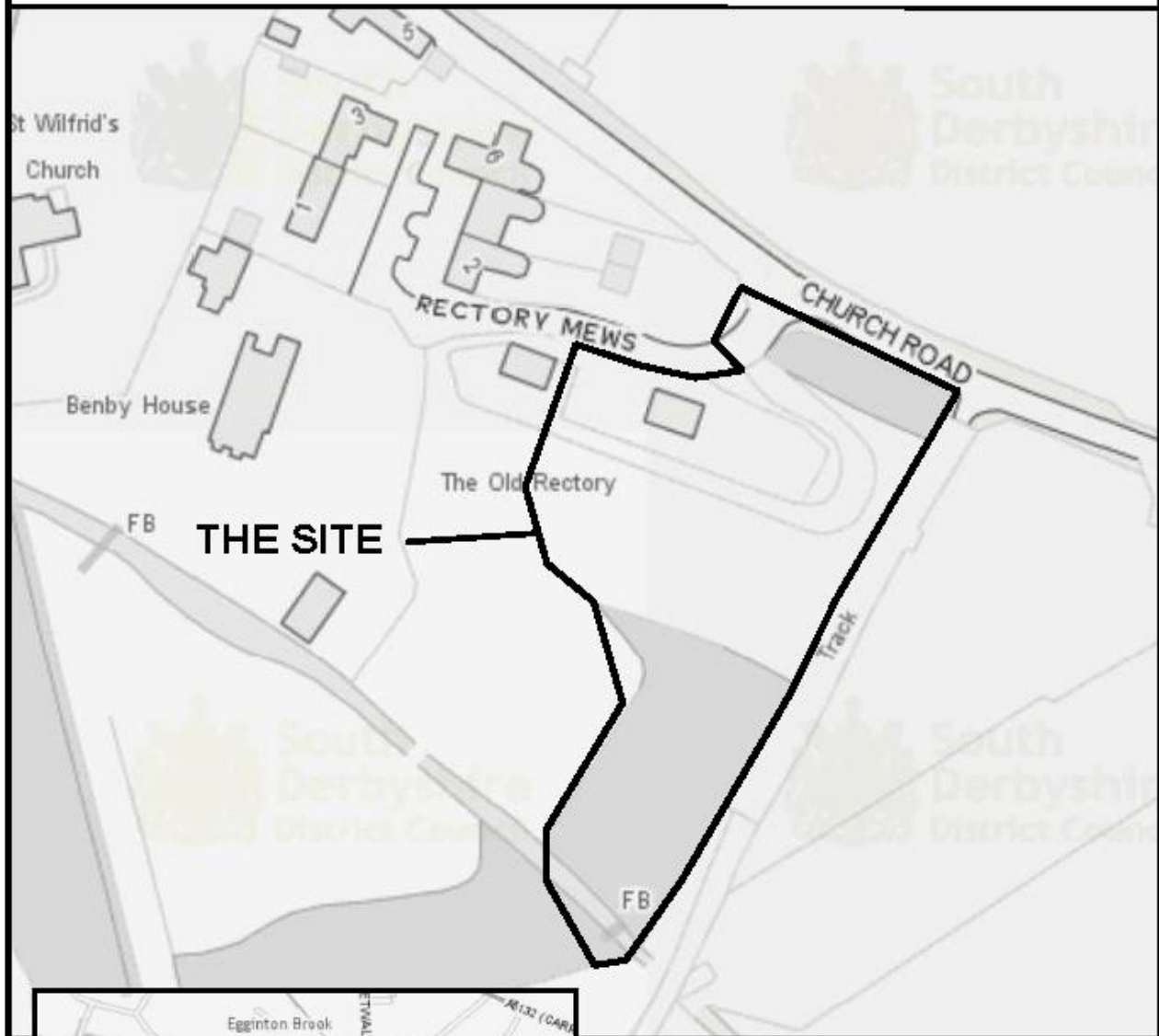
9/2014/0238 - Erection of a detached building to provide carers accommodation - approved by Planning Committee August 2014;

9/2016/0695 - Change of use of dwelling and annexe(s) to mixed-use, allowing family use/domestic staff and/or holiday accommodation across the site - approved by Planning Committee September 2016.

Responses to consultations and publicity

Environment Agency - no objection subject to conditions relating to floor levels and flood mitigation measures.

DMPA/2022/0301 – The Old Rectory, Church Road, Egginton, Derby, DE65 6HP



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South Derbyshire District Council. LA 100019481.2020

County Highways Authority - no objection.

Conservation Officer - supports the proposal, concluding that there would be no resulting harm to the character, appearance or setting of the adjacent Listed structures caused by the proposed extensions and garage and that there is capacity for segregation of the site with an appropriate boundary treatment (estate railings for example - as is proposed). Further comment was offered that the extended form could sustain both a flat or shallow pitched slate roof and would retain its classical contemporary offer.

Relevant policy, guidance and/or legislation

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); INF2 (Sustainable Transport); SD2 (Flood Risk); BNE1 (Design Excellence) and BNE2 (Heritage Assets)
- 2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development); BNE5 (Development in Rural Areas); BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

National Guidance:

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

Local Guidance:

- South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Design including impacts upon Listed setting;
- Impacts on amenity;
- Highway safety;
- Flood risk; and
- Trees

Design including impacts upon Listed setting

Plans show two major changes to the context here with the alteration of the current self-contained contemporary 'Pavilion' block (by way of extension, both sideways and upwards) and the addition of a detached, dual-pitched roof garage (with flat above). The Council's Conservation Officer is generally supportive of the principle, taking into account the sensitive characteristics of the setting.

The Pavilion, as extended, would, it is considered, continue to complement the setting rather than confuse the hierarchy, its current characteristics carried through, whilst its enlarged size still reads subserviently to the grandeur of the wider context and host (the undoubtedly more impressive Old Rectory). This judgement is helped ultimately by the parkland setting (of where groups of mature plantings provide useful screening), its physical separation from those listed neighbours (some 70m away) and arguably it reading as a contemporary folly, of which can often be found, in similar grand circumstances (ornate gate houses/lodges and the like).

In regards the detached garage, it would similarly be situated amongst mature trees, those trees deemed sufficient as to soften its impact, as would its part-open form and its predominantly dark timber finish, going some way to ensure that it equally does not compete unduly against the existing hierarchy; the site of a size capable of hosting a number of submissive forms (such as this) without those forms

appearing cramped (as it could do if located closer to the Pavilion) or viewed as constituting over-development.

Therefore, based on the above, it is considered the proposals achieve the 'desirable' objective of preserving the settings of listed buildings as described within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the aspirations of related policies BNE1, BNE2, BNE5, BNE10 and H27, generally in keeping and without significant detriment to the evolved character of the area and the overall setting.

The plans also show the intention of erecting some estate railings to de-mark the new internal boundary. The railings have been supported by the Conservation Officer as being an acceptable lightweight boundary marker, situated in the more parkland area of the garden (rather than the more formal gardens to the south of The Old Rectory). Again, that separation (from the listed asset) aids acceptance, as does the screening offered by the trees here, the railings akin to something found in a deer park.

Impacts on amenity

The proposal is considered to comply with the space around dwellings requirements of the SPD, neither of a size or situation as to overbear unduly or finished/fenestrated to where it would give rise to a significant reduction in privacy. Two-storey mass does have the potential to cause overshadowing and allow elevated views towards neighbouring primary spaces. Given the nearest neighbour is some 23m away, with some mature vegetation also intervening, any amenity impacts in that regard would be considered modest, the buildings designed to enjoy the immediate parkland gardens and not overshadow or overlook others.

Highway safety

In agreement with the Highways Authority, the change to the context is not considered objectionable. A separate planning unit exists here already with The Pavilion permitted to house bed and breakfast guests for 11 months of the year, such the change to that approved circumstance is not deemed to be significantly different in terms of traffic generation.

Flood risk

The Environment Agency have offered no objection to the proposals, subject to the extension (ground floor) and the new garage (ground floor) having floor levels no lower than the existing levels of the Pavilion (some 45.9m above Ordnance datum - AOD). The submitted flood report shows that the extension works would be complicit with that requirement but that the garage situation would need some modest mitigation - i.e. the immediate would need to be raised by some 65cm or a culmination of the levels being partly raised and the floor slab similarly raised to achieve that 60cm requirement. The resultant height of the garage block is not of a level to where the garage would jar in the landscape, mainly down to tree cover.

Trees

The proposal is considered not to cause a loss of important trees here. There are a high number of trees on the site but none stand out as being of high value to where a Tree Preservation Order would be warranted, be that individual trees or trees as part of a woodland. The new garage will involve the loss of some minor specimens but nothing to where the landscape or the parkland feel of the site would be unduly compromised.

Conclusion

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

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

Reason: To conform with Section 91 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(s)/drawing(s) ref. 101 (Location Plan), 103 Revision C, 105 Revision C and 115 Revision B; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Other than where specified on the approved plans/drawings, all external materials used in the development shall match those used in the existing building (The Pavilion) in colour, coursing and texture unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the building(s) and local distinctiveness.

4. The development shall be carried out in accordance with the submitted flood risk assessment (ref v1.0, dated 25 February 2022) and the following mitigation measures it details:

- Finished floor levels (to both the extension to The Pavilion and the detached garage) shall be set no lower than 45.9 metres above Ordnance Datum (AOD)
- Flood resilient construction materials and techniques shall be used - Sections 4.5 and 6.0
- Flood warning and evacuation plan - Sections 4.4, 4.5, 6.0 and Appendix B.

These mitigation measures shall be fully implemented prior to first occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

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

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

Item No. 1.8
Ref. No. [DMPA/2021/1416](#)
Valid date: 15/09/2021
Applicant: Scott Muir **Agent:** Bi Design Architecture Limited
Proposal: **The erection of one dwelling with new access, parking and associated works at Sunnyside Bungalows, 38 Main Street, Newton Solney, Burton On Trent, DE15 0SJ**
Ward: Repton

Reason for committee determination

The application is referred to committee at the discretion of the Head of Planning and Strategic Housing as there is a substantial amount of local opposition to be balanced against the potential local community benefits.

Site Description

The application site is located on the junction between Main Street and Church Lane within the village of Newton Solney. Pedestrian access to the site is via one level access pedestrian gate off Main Street and one stepped access from Church Lane. There is a fenced off dropped kerb access from Church Lane. The application site measures 715 square metres and is set back and elevated from Main Street. There are mature hedgerows along the Main Street and Church Lane boundaries with the application site mainly laid to lawn with a number of small trees. The application currently forms an amenity area for residents of the existing bungalows which are immediately adjacent to the application site and comprise two pairs of semi-detached bungalows constructed from facing brick and off white render.

The site is located within the settlement boundary of Newton Solney which is defined as a Local Service village in the Local Plan. The site also falls within the Newton Solney Conservation Area and is in close proximity to Listed Buildings.

The proposal

The application seeks full planning permission for a detached bungalow to be erected forward of the existing Sunnyside Bungalows to the north. The building would initially be used as a single dwelling with flexibility to convert this to two dwellings in the future. The mature hedgerow around the site is to be substantially retained, with the exception of a gap for a new vehicle entrance close to the north-western boundary of the application site off Church Lane.

Additional parking provision would be provided off this vehicle entrance with a total of six parking spaces.

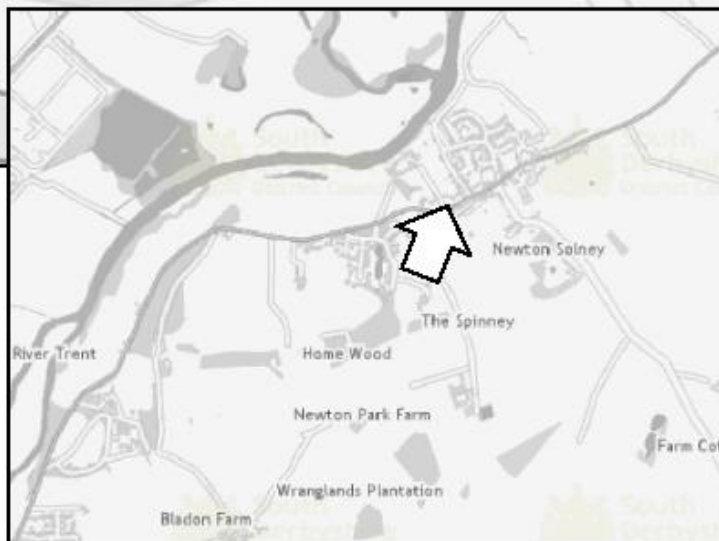
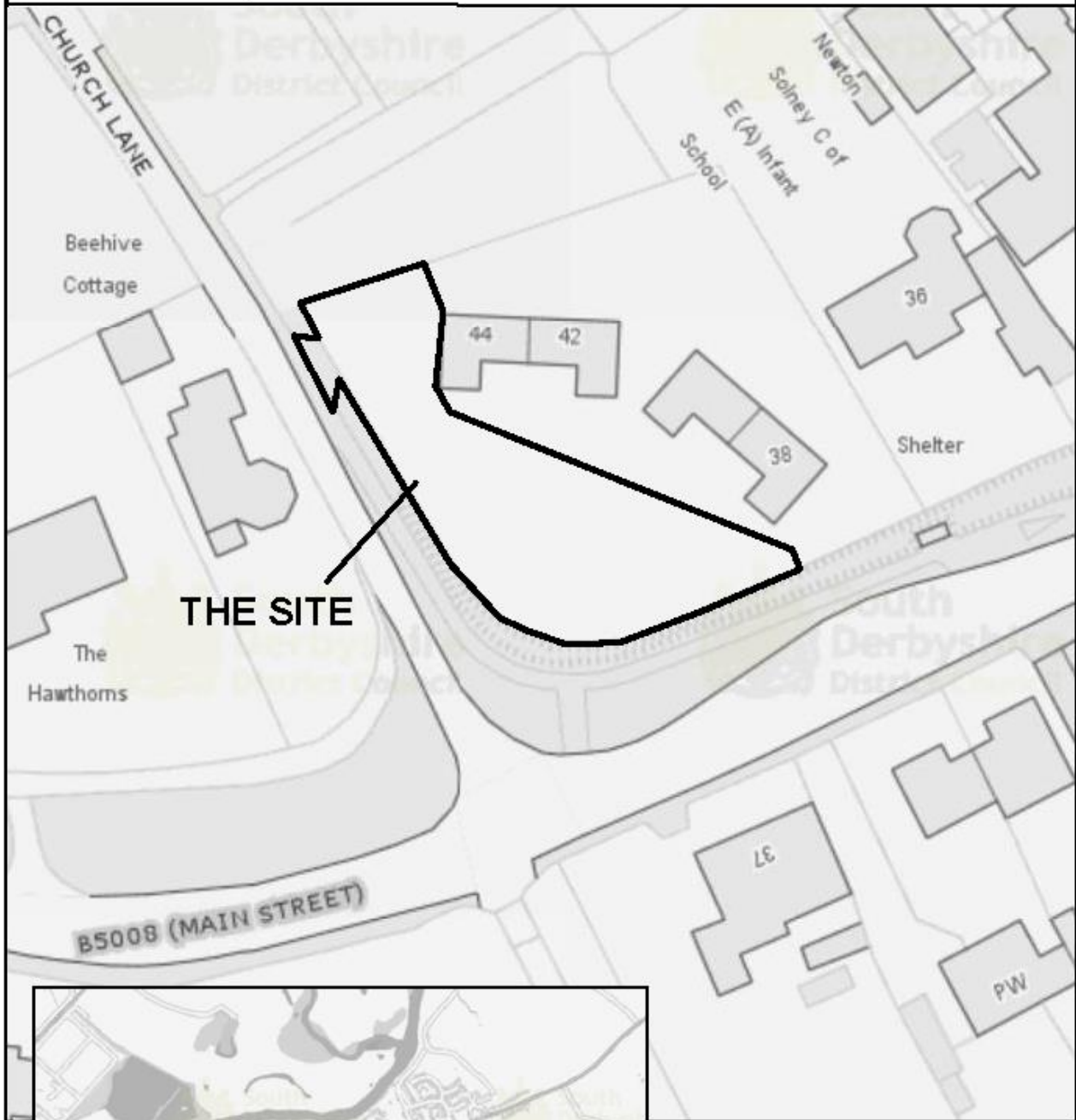
Applicant's supporting information

The applicant has submitted a design and access statement, supporting statement, heritage statement and arboricultural statement in a single document.

Below is a summary of the main points:

- The Percy William Ratcliffe Cottages Trust are proposing to build a two bedroom bungalow in the style of a pair of one-bedroom bungalows to match those existing in the grounds of the estate.
- The build costs will be donated to the trust by the benefactor who will be allowed to live there for the foreseeable future.

DMPA/2021/1416 – Sunnyside Bungalows, 38 Main Street, Newton Solney, Burton On Trent, DE15 0SJ



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South Derbyshire District Council, LA 100019461.2020

- The application is consistent with advice given at pre-application stage.
- The proposed property is within the Conservation Area and is close to four listed buildings at 'Beehive Cottage', 'Newton Solney Almshouses', 'The Cedars', and 'The Cottage'. The proposal has been designed to have an acceptable impact on these heritage assets.
- The application seeks to remove an existing holly tree behind the hedge on the Church Lane boundary. The tree is approximately 5m tall and is considered to be in average condition and not an asset to the Conservation Area. New planting is proposed which will compensate for the loss of this tree. Permission has separately been granted for the removal of a conifer tree.

Following the initial round of public consultation, a further letter was submitted which is summarised below.

- The proposed bungalow due to its siting and proximity to other bungalows shouldn't be considered like a one-off new property with a private drive and garden but as a collection of buildings which are run and managed by the Trust. Therefore, standard separation distances and minimal garden sizes shouldn't be considered in the same way.
- The creation of off-road parking from Church Lane will have the dual highway safety and conservation benefits of reducing roadside parking in a congested area for school drop off, and will also have a positive impact on the conservation area as the architecture will take centre stage over the cars.
- The new build will be on the Trust land and will at all times be fully owned by the Trust
- The donor(s) is (are) in their 60s and has (have) a direct blood relative living in the village. The donor(s) will initially live in the bungalow. Upon either the demise of the donor(s) or, if sooner, they vacate the property, residency will be offered to qualifying beneficiaries in accordance with their Trust Schedule.
- They consider the donation is extremely generous and will be an enormous benefit to ensure the longevity of the Trust.
- They believe opposition is partly due to the donor(s) request for anonymity
- There is no way the Trust could afford to build any additional property for themselves, and they are trying to maximise the use of charity property to perpetuate the Trust in the future.
- The Trust have three applicants on their waiting list currently and they are unable to say what the demand would be in 10 or 20 years time.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity on the original scheme

Newton Solney Parish Council – The proposed development will result in a loss of privacy for the existing residents, affect the Conservation Area, neighbouring listed buildings and war memorial, impact on existing flooding near the site, and set a precedent.

Conservation Officer – The proposal is to add a further dwelling into the space near the corner of Main Street and Church Lane, the form of that building would be very similar to the existing buildings, retaining the book-ended hipped gable roof form. This is important because as with its existing neighbours all that is likely to be apparent from the public realm will be the roofscape of this building.

The space between the hipped gables is not kept open as it is on the neighbouring properties but instead would be infilled by a flat roofed and marginal pitched sunroom / garden room, but this wouldn't have a significant impact on how the building appears from outside of the site.

The inward facing elevation, that which faces inwards towards 38-44, would be detailed in a very similar way to the existing neighbours and overall the building would sit comfortably beside its existing neighbours, including being detailed with two porches and 'doorways' to maintain the impression of a semi-detached unit like its neighbours.

Additionally, the presence of two sets of Almshouses in close proximity, despite their differing style, does add to the character of the conservation area and tells a story of ongoing acts of local philanthropy which the proposal would, in the longer term, represent a continuation of as the property would be gifted to the almshouses trust and ultimately be available to provide further accommodation for the trust to utilise.

The proposal well emulates the positive characteristics of the existing dwellings within the site and would similarly provide a visible roofslope of positive character within the public realm. The positive contribution which the site makes to the special character and appearance of the conservation area would be effectively maintained and thus 'preserved', achieving the 'desirable' objective within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would also have no adverse impact upon the settings of nearby listed buildings in any way which might adversely affect their special significance such that their significance as listed buildings would also be preserved as is similarly described as a desirable objective within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

County Highway Authority – The principle of two additional dwellings on the site with access taken from Church Lane is acceptable. Church Lane is lightly trafficked and speeds are likely to be below the 30mph speed limit. On that basis, the Highway Authority would accept visibility sightlines of 2m x 33m in this location. However, the main concern is the gradient of the access into the site along with its impact on the footway fronting the site, albeit that the footway is of limited width. This will have to be considered and form part of any formal submission.

The proposals included as part of the planning application include the provision of a new highway access off Church Lane which will serve 6 car parking spaces, 2 of which will be suitable for disabled users. The application confirms that the 4 existing one bedroom properties on the site will be allocated 1 parking space each whilst the new dwelling will be allocated 2 parking spaces, this is acceptable in principle.

The application also states that the proposed access provides entry to the site for emergency services and level access from both Main Street and Church Lane. The proposed access is designed to achieve a maximum gradient of 1:10 across the entire parking and manoeuvring space which is in line with comments from the County Council. There is ample space within the application site to allow vehicles used during the construction phase of development to park and turn, meaning they can enter and leave the site in forward gear, this is acceptable in principle.

However, it is noted that no dimensions are shown on the proposed site layout indicating the size of the parking bays or the aisle width between the spaces. The minimum size of a standard parking space is 2.4m x 4.8m and for a disabled space a minimum size of 3.6m x 6m to allow for the access zone to the side and rear of the space. The applicant is requested to amend the proposed site plan to show the dimensions of the parking bays and also the aisle width between the spaces, which should be a minimum of 6m to allow safe manoeuvring in and out of the spaces and to ensure vehicles can enter and leave the site in a forward direction.

The County Highway Authority were reconsulted after amended plans were received, based on the comments regarding the size of the parking bays. No objections were raised, subject to conditions.

Severn Trent Water – Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available as an alternative, other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted before a discharge to the public sewerage system is considered. No surface water to enter the foul water system by any means.

DCC Archaeology – The appropriate course of action is to require archaeological monitoring of the development groundworks, scalable to a more formal strip-and-record format in the event of coherent and significant medieval village archaeology being identified. This should be secured by condition in

line with NPPF para 205.

Tree Officer – The trees are nice specimens, and although relatively small, do offer some aesthetic amenity. I have requested that the LPA do issue a TPO as removal is foreseeable.

With regards to the hedge, I can only find where a section is to be removed to facilitate an access drive. I don't consider the LPA have any way of preventing this. It is my understanding that hedges do not require removal consent unless they meet certain criteria.

Environmental Health Officer – No comments received.

70 objections were received from neighbours or members of the public. These raised issues with the following aspects of the proposal:

- a) Affect neighbour amenity, by way of a loss of light and privacy
- b) Result in a loss of allotments
- c) Result in a loss of amenity space for existing residents
- d) Design not in keeping with existing dwellings
- e) Impact on heritage assets
- f) Loss of protected trees
- g) Detrimental impact on the character of the area
- h) Inappropriate density
- i) Set precedent for further inappropriate development
- j) Impact on wildlife
- k) Noise and disturbance from car parking area
- l) Proposed access would impact on road safety
- m) Application fails to demonstrate a housing need.

Responses to consultations and publicity on the additional information submitted in support of the scheme

Newton Solney Parish Council - reiterate a number of their previous concerns and point out a lack of suitability of the site for affordable housing when the issue was looked at a number of years ago and a lack of need for the additional almshouses with reference to data from the Almshouses Association.

Severn Trent – no objections subject to conditions.

DCC (Archaeology) – previous comments still apply.

17 additional objections were received from neighbours or members of the public which largely reiterate previous objections and confirm the amended information does not address concerns previously expressed:

- a) The issues of car parking do not give rise to problems currently and the occupiers of the bungalows in the main don't drive and as such electric vehicle charging facilities are not of any benefit.
- b) There is not a need for additional almshouses in the village.
- c) Loss of allotments and amenity for existing residents.
- d) Overdevelopment/ out of keeping with surroundings/loss of trees.
- e) The new dwelling would not be seen as part of the complex of bungalows but as a standalone dwelling.
- f) The Trust has other means of raising money.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport)
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside) and BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of development
- Design
- Residential amenity
- Highway safety and parking
- Heritage
- Drainage
- Trees and Hedgerows

Planning assessment

Principle of development

The application site is located on residential land inside the Newton Solney settlement boundary, as defined by Policy SDT1. Therefore, the principle of residential development on this site is acceptable.

Design

The form of the dwelling would be very similar to the existing four dwellings, retaining the book ended hipped gable roof form. The space between the hipped gables is not kept open, as it is on the neighbouring properties, but instead would be infilled by a flat roofed and marginal pitched sunroom/garden room, but this wouldn't have a significant impact on how the building appears from outside of the site, given the elevation of the site, in comparison to street level, and the existing hedgerow providing a natural screening. The inward facing elevation, that which faces inwards towards nos. 38-44, would be detailed in a very similar way to the existing neighbours and overall, it would sit comfortably beside its existing neighbours, including being detailed with two porches and doorways to maintain the impression of a semi-detached unit.

Part (A)(i)(e) of Policy BNE1 of Part 1 of the Local Plan states that new development should respond to their context and have regard to valued landscape and townscape characteristics. The Design SPD expands on this by stating that new development should aim to preserve and enhance local landscape characteristics in order to keep the special character of the area alive and ensure that proposals successfully knit into their surroundings. The proposed siting within the open space to the front of the almshouses would position the dwelling prominently within the streetscene but this prominence is mitigated by the existing hedgerow which can be conditioned to be retained. One of the negative aspects of this proposal is that the existing open space of this corner site would be reduced as a result of the proposal, by occupying this well-established space and bringing built development closer to the southern boundary of the site with the highway. The space, in itself, is deemed to be a characteristic of the site. Therefore, the proposal fails to fully comply with Policy BNE1 and the SPD, as it would not preserve a valued characteristic of the site.

Residential amenity

Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity.

When assessing the impact on the four almshouses to the rear of the proposed dwelling (Sunnyside Bungalows), the site plan shows approximately 9.9m and 11.2m distances from the living room windows in the forward most front elevations of no. 40 and 42, respectively, to the rear elevation of the proposed dwelling, which includes a window that serves a dining/living room. These windows are considered to be primary windows to their respective living spaces. The new build would also be to the south west of Sunnyside Bungalows. The 'Distance Guidelines' in the SPD allow for flexibility for single storey dwellings looking at individual site circumstances. Although there have been strong objections to the contrary, it is considered that the new bungalow would form part of the almshouses complex both functionally and visually. In the short term there is the opportunity to secure a boundary treatment via condition that would maintain privacy given the single storey nature of the existing and proposed bungalows. The new bungalow would remain as part of the overall management of the almshouses complex and this can also be secured either via condition or s106 to ensure this remains the case. The single storey design of the bungalow is sufficient to ensure that its location to the south west of Sunnyside Bungalows does not result in any oppressive impact on these existing bungalows.

As such, it is considered that a dwelling could occupy the proposed footprint without demonstrably impacting upon the residential amenities of the neighbouring properties to the rear, and therefore the proposal is in compliance with policies SD1 and BNE1.

Highway safety and parking

Church Lane is lightly trafficked, and speeds are unlikely to exceed the 30mph speed limit. The proposal includes the formation of a new access onto Church Lane, with a six-bay car parking area adjacent to this proposed access in the north-west corner of the site. The County Highway Authority initially sought amended plans to show the dimensions of the parking bays and the aisle width between the bays to allow for safe manoeuvring in and out of the spaces and to ensure that vehicles can enter and leave the site in a forward direction. Upon receipt of these amended plans, the highway authority was content, subject to conditions. As such, the proposal complies with the requirements of Policy INF2 and the NPPF.

Heritage

The Council's Conservation Officer was consulted as part of the application, due to the site's location within the Newton Solney Conservation Area, as well as the proximity to nearby listed buildings. They stated that the form of the dwelling would be very similar to the existing buildings, retaining the bookended hipped gable roof form, and including two porches and 'doorways' to maintain the impression of a semi-detached unit.

They concluded that the proposal well emulates the positive characteristics of the existing dwellings within the site, would provide a visible roof slope of positive character within the public realm, and that the proposal would have no adverse impact upon the settings of the nearby listed buildings.

The proposal site lies approximately 140m south of the 12th century St. Mary's Church and may consequently fall within the medieval core of the village. It is within the 'Area of Archaeological Interest', defined in the Newton Solney Conservation Area Character Statement.

For these reasons, the County's Development Control Archaeologist was consulted, who raised no objection, subject to a condition that would seek a Written Scheme of Investigation prior to commencement.

It is therefore considered that the proposal protects, conserves and enhances the assets, as required by Policy BNE2 and has demonstrated that the proposed design is sympathetic and minimises harm to the assets, as required by Policy BNE10 of the Local Plan.

Drainage

A number of objections raised issues with the proposal's car park and how this would result in an increase in flood risk on Church Lane. The site is not located within a Flood Zone, therefore neither the Environment Agency nor the Lead Local Flood Authority were consulted. Severn Trent were consulted and raised no objection, subject to the utilisation of sustainable methods of disposing of surface water, such as soakaways. Therefore, it is considered that, while there may be issues with flooding on Church Lane, the proposal will not intensify this issue and thus meets the requirements of Policy SD3 of the Local Plan.

Trees and Hedgerows

Policy BNE4 states that development will be expected to retain key valued landscape components such as mature trees, established hedgerows and topographical features within development sites, unless it can be demonstrated that the loss of features will not give rise to unacceptable effects on local landscape character.

Policy BNE7 states that the felling of protected trees, groups of trees or woodland and/or removal of important hedgerows, will be considered in accordance with the relevant national guidance and regulations, taking account in particular of their amenity, ecological, landscape and historic value.

The Council's Tree Officer stated that the removal of the holly tree, while a relatively small tree, does offer some aesthetic amenity, and would therefore result in a detrimental aesthetic loss to the site and its surroundings. The Tree Officer also stated that they had recommended that the tree be placed under a Tree Preservation Order to protect against its removal, should the application be approved. With regards to the removal of the hedge, which is required to facilitate the access drive, the Tree Officer did not consider it to meet the criteria that would require removal consent. Therefore, the removal of the hedging is not considered to be a significant loss to the site and its surroundings. The proposed loss of the tree is therefore a negative aspect of the proposal albeit one that could be mitigated with a requirement to undertake replacement planting as part of any approval. Given the comments of the Tree Officer, it is considered that the scheme would fail to fully meet the requirements of policies BNE4 and BNE7.

The Planning Balance

The applicant's supporting information is that this application will secure the long-term future of the Trust for the benefit of the charitable services they provide. They are clear that they have undertaken the necessary liaison with the Charity Commission and the Almshouses Association and have taken on board advice. There are means to secure that the new build now proposed remains as part of the almshouses complex and is never sold as a separate entity. Further advice will be given to committee as to whether a condition or S106 agreement is the most appropriate way of achieving this.

There are additional benefits regarding providing additional parking provision and the potential reduction of on street parking as a result. It is accepted that this point is somewhat diluted by the likely age profile of residents, but this does not mean that this point is without merit.

There is a neutral impact on the effect of the development on heritage assets including the war memorial status of the site and the impact of the proposal on the conservation area and nearby listed buildings all of which are considered acceptable.

The impact on neighbours regarding any overbearing impacts or loss of privacy is also considered to be acceptable given the single storey nature of the proposal and that in the long term the new dwelling will operate as part of a complex and not as a separate entity.

There are negative impacts in terms of the loss of the holly tree which in the absence of the approval of this application will progress to have a TPO confirmed and the loss of the outdoor amenity space which is positive feature of the area. There is some conflict with Local Plan policies in this regard.

Other points raised through consultation from statutory consultees can all be addressed via appropriate conditions. The perceived lack of need for additional almshouses in Newton Solney is not a reason to reject the application as needs can change over time.

Conclusion

Whilst the loss of both the open space to the front of the existing Sunnyside Bungalows and the holly tree is regrettable, these points are considered to be outweighed by the benefits of providing an additional bungalow to be used in the long term by the trust and also securing the long term future of the charitable trust. This is in the context of applying an appropriate mechanism to secure the long term benefits of providing an additional bungalow put forward by the applicant and the ability to secure a landscaping scheme that will mitigate the loss of the holly tree. These benefits are not considered to be significantly diluted either by the wish of the benefactor to remain anonymous or by local concerns that there is no local need for additional almshouses. Needs can change over time and this application will assist with the financial position of the trust in the long term.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

That authority to grant permission be delegated to the Head of Planning and Strategic Housing in consultation with the Chair of Planning Committee following satisfactory conditions and subject to completion of a Section 106 Legal Agreement/Unilateral Undertaking (if required) to secure the use of the bungalow as part of the almshouses complex in perpetuity.

REPORT TO:	Planning Committee	AGENDA ITEM: 5
DATE OF MEETING:	3rd May 2022	CATEGORY: Delegated
REPORT FROM:	Head of Planning and Strategic Housing	RESTRICTED
MEMBERS' CONTACT POINT:	Sarah Beeby Sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	Deed of Variation – OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT FOR UP TO 550 UNITS, A TWO-FORM ENTRY PRIMARY SCHOOL, STRATEGIC ROAD LINKS (CONNECTING BOULTON MOOR PHASE 1 AND SNELSMOOR GRANGE) PUBLIC OPEN SPACE INCLUDING CHILDREN'S PLAY PROVISION, SURFACE WATER DRAINAGE AND LANDSCAPING AND ANCILLARY SUPPORTING INFRASTRUCTURE (BOULTON MOOR PHASE 2)	REF: 9/2016/0166
WARD(S) AFFECTED:	Aston	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee approves an amendment to the Section 106 agreement (S106) by means of a Deed of Variation (DoV) to accept total financial contributions of £1,360,000 along with the provision of 10% on site affordable dwellings (55).
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2. Purpose of Report

- 2.1 An approach has been made to the Council under the 'mutual agreement' allowances of section 106A of the 1990 Act, it being less than 5 years since the agreement was signed. This report considers the reasons why the approach has been made and the recommendations above are proposed.

3. Background

- 3.1 Members may recall that the site was considered by Planning Committee and subsequently granted outline planning permission in July 2020. The scheme was proposed as a Local Plan compliant scheme providing 30% affordable housing (15% on site and a commuted sum of £4,539,061 for 15% off-site) and developer contributions totalling £6,356,145 towards education, healthcare, monitoring fees and play and open space provision.
- 3.2 The original S106 agreement contained 12 'parts', 11 of which required the undertaking of works, the payment of financial contributions or the provision of infrastructure. These are summarised thus:

Affordable Housing

This schedule sets out the requirement to submit an Affordable Housing Scheme for each phase applied for at Reserved Matters stage. 15% of dwellings within each phase shall be affordable and trigger points are set for their transfer, the payment of the Affordable Housing contribution, form of transfer and restrictions on occupation. A formula sets out how the off-site contribution for the remaining 15% of any Affordable Housing and any additional short fall in Affordable Housing provision on site.

Built facilities

This schedule identified the formula used to calculate the financial contributions sought towards built facilities and sets out the specific trigger points.

Outdoor sports facilities

This schedule identified the formula used to calculate the financial contributions sought towards outdoor sports facilities and sets out the specific triggers points.

On-site public open space (POS)

This schedule sets out the requirements for notification of transfer of POS to the Council or a management company and funding mechanisms. It set out the trigger points for providing POS per phase.

Off-site public open space contribution

This schedule identified the formula used to calculate the financial contributions sought towards Off-site public open space and sets out the specific triggers points.

Drainage

This schedule sets out the requirements for notification of transfer of the SuDS for each phase, the maintenance of, the trigger points for providing these and restrictions on such.

Management company

In the event of the POS or SuDS being transferred to a Management Company this schedule sets out the trigger points for providing the council with details of the company and its funding, maintenance and inspection mechanisms.

Healthcare contribution

This schedule identified the formula used to calculate the financial contributions sought towards health care and sets out the specific triggers points.

Monitoring fee

This schedule sets out the monitoring fee payable.

Education contribution

This schedule relates to a covenant with the County Council and identified the financial contribution and formula used to calculate the contributions sought towards primary and secondary education and sets out the specific triggers points.

Travel plan monitoring fee

This schedule relates to a covenant with the County Council and identified the financial contribution towards the monitoring fees associated with the implementation of the travel plan

4.0 Discussion

- 4.1 A viability assessment has been submitted which has been independently assessed by the District Valuer. This identifies that on the basis of the agreed design, build and abnormal costs, the development would not be able to withstand the full requirement of S106 contributions or affordable housing provision from the values that could be reasonably achieved from the site.
- 4.2 Whilst there are a small number of unagreed details between the District Valuer and the applicant, these are relatively minor points and in taking the view of the District Valuer on these points it remains the case that the development would not be viable on the basis of the whole package of contributions.
- 4.3 Notwithstanding this, there are three alternative scenarios whereby the development could support a certain level of developer contributions and/or affordable housing the first two of these are suggested by the District Valuer with the third being a proposal by the applicant, and these merit serious consideration:
- A. Retain 15% on-site Affordable Housing (on the basis of 60% Social Rent: 40% Shared Ownership), and in order to maximise the amount available for payment of Section 106 financial Contributions, the off-site Affordable Housing financial Contribution would need to be reduced to zero; on this basis the amount available for Section 106 Contributions would be the reduced amount of £5,662,453
- B. Affordable Housing provision retained at 15% on-site and a further 15% by way of off-site financial Contribution in accordance with the requirements of the Section 106 Agreement, the Section 106 Contributions would need to be reduced to a total of £1,360,000 (on the basis of payment prior to occupation of 50% of the dwellings).
- C. Reduce the onsite affordable housing to 10% (a reduction of 5%), in addition to the removal of the offsite housing contribution (i.e. £4,539,061). This would ensure that the level of financial contributions requested could be met in their entirety.
- 4.4 Policy INF1 of the Local Plan identifies that for development that is otherwise in conformity with the plan, but generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and

- mitigate the impact of a development is either (i) already in place or (ii) secured.
- 4.5 Policy H21 of the Local Plan (part 1) states that the Council will secure up to 30% of new housing development as affordable housing on sites of over 15 dwellings.
- 4.6 Consideration of the required developer contributions and affordable housing was undertaken by members at Committee in February 2020. Members agreed with the officer recommendation that the contributions sought met the identified legal tests and so were necessary to mitigate the impacts of the development which weighed as a positive material consideration within the overall planning balance.
- 4.7 In relation to development viability, the Planning Practice Guidance (PPG) sets out that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. Whilst the site was allocated in the Local Plan the costs associated with the development have only been realised as a result of more detailed work undertaken as part, and following approval, of the outline planning permission.
- 4.8 The viability information provided by the developer has been independently assessed and it has been confirmed that it would not be viable for the development to provide the full package of contributions and affordable housing, but that it could support a revised package. Whilst it is acknowledged that the associated benefits of the development would therefore be reduced in this regard; overall the disadvantages on housing delivery associated with non-delivery of the site are considered to be greater. On balance, therefore, a development which delivers a reduced level of contributions/affordable housing is considered preferable.
- 4.9 On accepting the above, it therefore falls to be considered which of the identified scenarios would be most suitable taking into account the applicable planning policy and local circumstances.
- 4.10 The Strategic Housing Team has provided comments on the options. They advise that Boulton Moor is an area of low demand in respect of affordable housing.
- 4.11 It is acknowledged that there is a lesser need for affordable housing in this area for the residents of South Derbyshire, which is acknowledged by the agreement to allow an offsite contribution to be made originally.
- 4.12 Having regard to this, it is considered that option C would offer a more balanced approach to enable the truest localised need for affordable housing to be met whilst ensuring that the pressures on education and good quality and sufficient recreational facilities are appropriately resourced, creating a sustainable community. On balance this is considered an acceptable compromise and is reflective of Corporate Plan aims to secure necessary infrastructure requirements to support development.
- 4.13 The advice of the DVO is that their appraisal remains valid for a period of 12 months (from January 22).
- 4.14 It is Officers view that Policy INF1 and the relevant Planning Practise Guidance allows for a review mechanism within a S106 Agreement. That said noting the passage of time since the report was received from the DVO, the finance implications of the off-site highways works required and the need to secure

developers and subsequently submit reserved matters applications, it is considered that an extended review period, which could either be a set period of time or prior to specific phases of the development being commenced, would allow more certainty to prospective developers which would ensure that the site came forward in a timely manner so as to contribute significantly towards the council's five year housing land supply.

5.0 Conclusions

- 5.1 The obligations set out above are proposed so as to ensure the impacts of the development are appropriately mitigated, and whilst the percentage of affordable housing would be reduced in this case, the benefits to the new community in this regard would remain. On balance, whilst there would be some conflict with Policy H21 this is considered the material considerations in favour of the development are considered to override this harm.

6.0 Financial Implications

- 6.1 The endorsement of the above recommendation would ensure that Corporate projects relating to sport and recreation would be supported.
- 6.2 The Council's legal fees associated with pursuing a DoV would be covered by the developer.

7.0 Corporate Implications

- 7.1 Approval of the recommendation set out above would support the delivery of an approved housing site which has been included within the Council's calculations relating to housing land supply. If the variation to the S106 is not agreed, it may compromise the delivery of the whole site, reducing the available housing supply.
- 7.2 The proposal would contribute towards the key aims of the Corporate Plan including the measure to enable the delivery of housing across all tenures to meet Local Plan targets. Furthermore, it would ensure the improvement of infrastructure to meet the demands of growth, again in line with a Corporate Plan measure.

8.0 Community Implications

- 8.1 The principle of development has been established through approval of the outline Planning permission and the required public consultation has been undertaken. Delivery of the scheme would contribute positively towards the social dimension of sustainable development through the provision of market housing, and would help address an identified local need in regard to the provision of affordable housing on the site.
- 8.2 By securing the financial obligations set out, the communities created and impacted upon would be able to access suitable education and recreation facilities.