

# **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).

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## 1. Planning Applications

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

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

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

## 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/2020/1393](#)

**Valid date:** 16/12/2020

**Applicant:** Karen Brenchley

**Agent:** Elisabeth Hackett Architect Limited

**Proposal:** Demolition of open porch and replacement with enclosed porch and the erection of new entrance gates and wall in part and new boundary wall with associated landscaping at 79 Main Street, Kings Newton, Derby, DE73 8BX

**Ward:** Melbourne

### **Reason for committee determination**

*This report was deferred at the meeting on 27 April 2021 to allow Members to undertake a site visit. All parts of the report remain unaltered.*

This application is presented to the Committee at the request of Councillor Fitzpatrick as local concern has been expressed about a particular issue.

### **Site Description**

The application site is located within the rural village and conservation area of Kings Newton and the property has been identified as a building that makes a positive contribution to the character and appearance of the conservation area. The application property is a modest cottage with attached barns, possibly once associated with Cofton fronting onto Trent Lane. The 1880's OS map shows Cofton as the nearest sizable house whilst part of the range of buildings on site has a cottage character this feels more likely to have been a workers cottage with attached barn ranges rather than a farmhouse in its own rights.

### **The proposal**

The application seeks planning permission for the demolition of the existing open porch and its replacement with an enclosed porch and the erection of new entrance gates and wall in part at the site frontage and a new boundary wall along the internal west boundary with 75 Main Street.

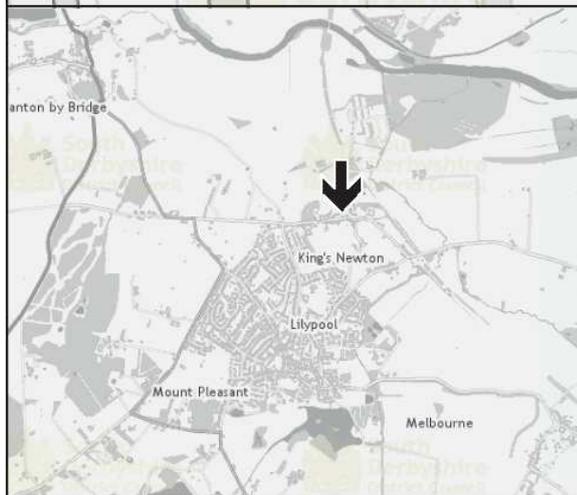
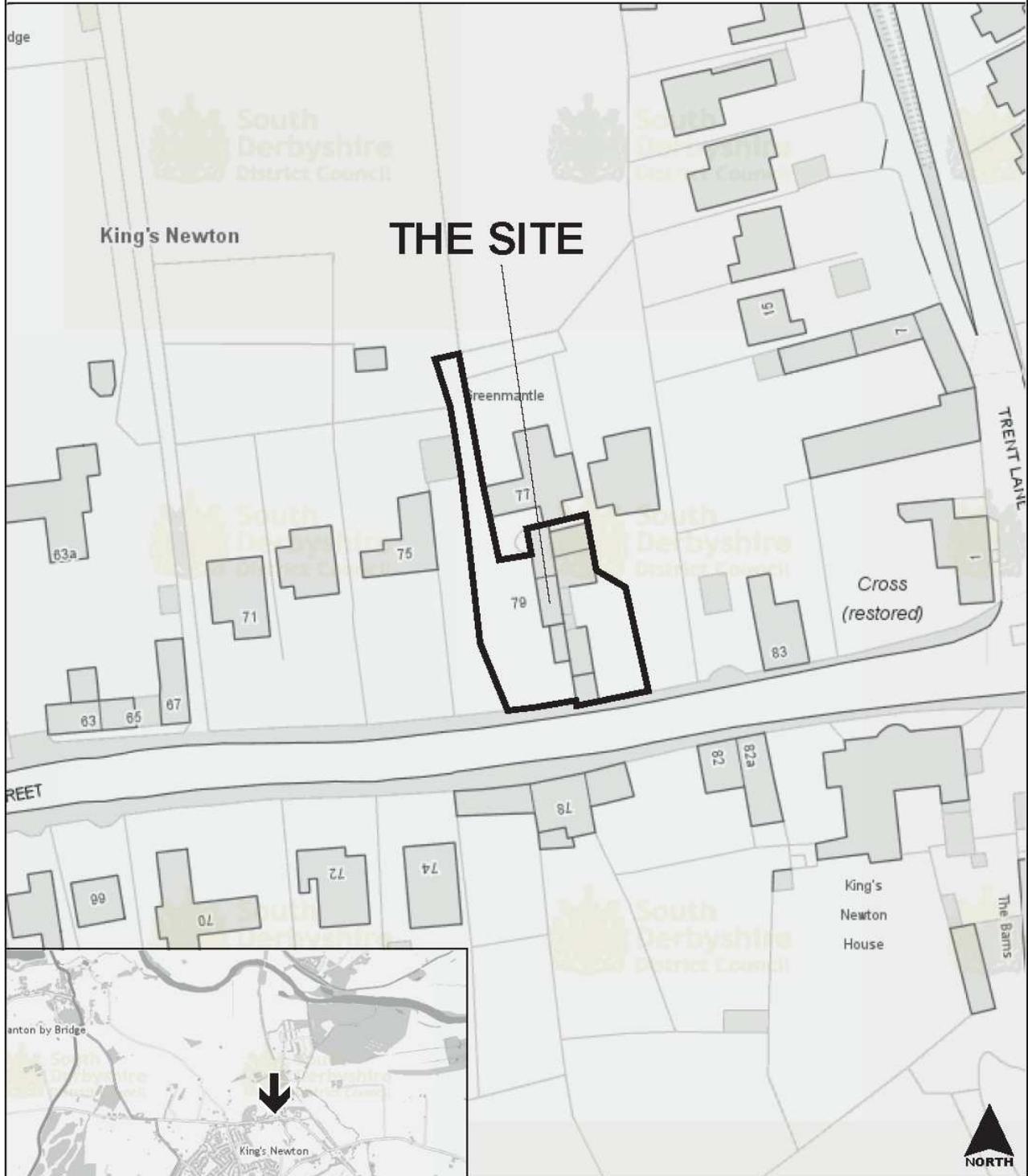
### **Applicant's supporting information**

A Design and Access Statement has been submitted which includes up-to-date photographs of the building and site and which covers the following:

The courtyard is used for parking and turning and has been left open, with no physical boundaries, as all the properties were originally owned and inhabited by members of the same family. There was a reasoned mutual agreement for the use of the courtyard however, over the years the properties have been sold off and therefore the communal idea of the courtyard no longer works and defined physical boundaries are needed. A new brick wall defining the properties boundaries within the courtyard/driveway is proposed and rights of way will be retained. The current access into the courtyard/driveway of No. 79 is used by the other homeowners and should actually only be used by No. 79 with only the occupants of No. 77 having a right of way over said land. Current arrangements allow no privacy for the application property.

New timber boarded gates, and a pedestrian gate set within the wall, will be no higher than the existing stone walls and the walls will be extended to create an opening to meet the new set back gates. This arrangement has been used in other instances along Main Street (at Chanty Barns, Newton Hall, The Barns at Newton Hall, No's 74, 70 and 83 Main Street). The proposed walls will create a sense of flow and continuation of the beautiful gritstone walls which frames Main Street. No existing wall fabric will be lost or altered.

**DMPA/2020/1393 - 79 Main Street, Kings Newton, Derby DE73 8BX**



**South Derbyshire District Council**

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The new porch entrance will allow people to enter the property without the need to come off the courtyard directly into the dining room. This has posed problems from a thermal and over-looking point of view, with access being straight into a habitable room. The new porch creates a covered subservient entrance that makes reference to the historical context of the buildings and avoids harms to the existing fabric. It is designed to edge the boundary line of the car parking for No. 77 creating privacy and security for the occupiers.

The scale of the new porch is dictated by the constraints of the site being mindful of the existing context with gables and the vernacular architecture. The structure will not mask the existing timbers found within the existing walls on the front (west) façade on the 2-storey element. The gabled timber framed porch adjacent to Main Street reflects the existing later addition porch which is part of the character of the conservation area as mentioned in the Kings Newton Conservation Area Character Statement. The remaining enclosed structure of brick and stone is reflective of the existing materials found on the host building and the perpendicular massing off the existing linear axis is a typical arrangement.

Landscaping will remain neutral and reflective of the context and the street scene. The Main Street fronting stone walls will remain in grit stone and of the same height as the existing. The new boundary wall between No's 79 and 75 will be no higher than 2m and will be constructed from reclaimed bricks to match the existing host building and will have grit stone towards the base as on the host building. The top of the brick wall will be capped in flat stone matching that found on the existing grit stone walling to Main Street. If costs are too high for the brick wall then this can be made from timber boarded panels. The new hardstanding will be gravel.

In summary, it is hoped that the proposal will be seen as an improvement which will enhance the existing living accommodation for the occupiers and which will preserve the building for years to come without harming the historic fabric of the building or the character of the conservation area.

### **Relevant planning history**

9/0596/0086/F: The extension and conversion into a dwelling of the barn at the rear of 79 Main Street, Kings Newton – Full planning permission granted on 27th August 1996. Condition 12 requires planning permission to be sought for any alterations or extensions to ensure that any such extensions/alterations are appropriate to the character and appearance of the building and in the interests of privacy.

9/2000/0246: Alterations and extensions. Full planning permission granted on 11th May 2000.

9/2000/0247: The demolition of a single storey outbuilding. Relevant Demolition Consent approved on 11th May 2000.

### **Responses to consultations and publicity**

The Conservation Officer is of the opinion that, subject to the imposition of conditions for facing and roofing materials, the proposed development would not harm the character and appearance of the conservation area. A sample stonework panel condition should also be imposed to ensure that the work is undertaken to a good standard. The proposed walls for the site also incorporate stone elements so there is a reasonable extent of stonework so as to make this condition worthwhile.

Melbourne Parish Council have raised no objections.

Melbourne Civic Society objects to the proposal and comments as follows:

- This proposal will be detrimental to the character and appearance of the conservation area. The main reason is that no.75 and the adjacent farmyard are complementary parts of a historic farmstead, and the openness of the farmyard is important to the way that it is understood and appreciated.
- The farmhouse now looks 1920s from the front, but is in fact partly 18th century.

- The adopted SDDC Conservation Area Appraisal draws attention to the linear, L-shaped and U-shaped courtyards of buildings as a defining characteristic of the conservation area. Subdividing courtyards with such fences is injurious to their character and is something that the District Council generally “designs out” of barn conversion schemes.
- The addition to no.79 is also badly-designed, being of a rather contrived form and badly related to the roof of the existing building.
- By way of background, nos. 75 to 79 are an ancient farmstead which had formerly belonged to the Kings Newton Hall estate. It was bought out by the Melbourne Estate in 1734, and they owned it until 1919. The house now known as no. 79 was in existence as a cottage within the farmstead by 1767.

Kings Newton Residents Association (KNRA) objects to the proposal and comments as follows:

- This application creates permanent damage to conservation area characteristics.
- 79 Main street is one of a number of converted agricultural buildings edging what would have been an original farmyard. It is referred to as the Orchard Yard. It is a key part of Main St, described by Pevsner as “one of the most attractive main streets in Derbyshire”.
- The SDDC Conservation Area Character Statement includes deliberate reference to the “long ranges of farm buildings that survive substantially unaltered, creating linear, L-shaped and U-Shaped courtyards”. The document says that these are an important part of the historic settlement pattern providing a contrast between the grand houses and the farmhouses and cottages. The overall conservation area description describes the village as “best described as an area of strong contrasts and it is these contrasts that make it so special and picturesque.” It also describes “the private spaces and courtyards behind the main buildings. These are largely unobserved but are nevertheless an important part of the historic settlement pattern, its grain and agricultural character”.
- This is one of the U-shaped courtyards that is key to this contrast and character.
- Newton Wonder Court is an example of where SDDC have preciously made sure that this rural/farm feel has been continued in the village. There is large open space edged by properties which all have a rural design to them. The Elms Farm Yard is another example that has been maintained despite development. Please maintain this level of protection of the conservation area.
- The conservation area protection has so far done a good job of leaving farm buildings visible, clearly showing the agricultural nature of the history of the village. There are no modern walls on key yards and the majority of these have no gates on so that the view to the farm buildings is maintained. For examples please refer to Chantry Barns, Kings Newton House, the Elms Farm yard, Cofton House driveway, 63a Main St. For Kings Newton Hall and Barns there are gates but these are either left used or are wrought iron, which maintain the views of the yards.
- If absolutely necessary, marking boundaries of properties/ground maintenance is more appropriately done by change of ground surface, keeping the open feel to Main St properties. Example of this include between 71 and 73 Main St, and between 15 and 17 Trent Lane.
- The application mentions that if a boundary wall is too expensive they will build a fence or have a compromise of a wooden top to the boundary. A fence or a non-gritstone wall would be completely out of keeping for this site in the conservation area and must not be permitted in any case. The cost of constructing a wall in keeping with the conservation area is going to be high, and this application as written, if granted, is highly likely to result in a completely inappropriate boundary fence or wall made of a cheap material. The details provided in this application are inadequate to determine the impact on the conservation area.
- The creation of a wall/fence and gates prevents access to 77 Main St. 77 Main Street has a right of access over the land of number 79. Whilst we are not sure SDDC planning processes are involved in rights of access, there is a safety and public services access issue. 77 Main St will be completely invisible from the road which will create safety and delivery problems. Fire engines, ambulances etc. will find it impossible to identify and access No. 77 if it is behind closed gates and if they then have to find a way past parked cars and flower beds. It is

- appreciated that the applicant wants a feeling of well-being at home, but this application is making the resident at 77 extremely anxious about how she would get help in an emergency.
- The proposed build also makes it impossible to manoeuvre to be able to park 2 cars. There is space for the cars when parked but not to be able to get the second car into the space. Spaces for parking need to be practical.
  - In addition, it appears agricultural machinery needing to access the field behind the yard would not be able to get through. This makes the land unviable for farming.
  - There seems to also be a difference of opinion as to the exact boundary position, especially with regards to the tree. The upkeep of the tree has been split between the neighbours (unfortunately you can see this in how it has been pruned). Whilst it is good that this application keeps the tree we are also very concerned about the impact of construction on the health of the tree, which is again part of the Kings Newton Conservation Area Characteristics.
  - The conservation area characteristics implies that there may be reasonable expectation that archaeological evidence relating to the medieval and or post-medieval periods may survive below ground but this is not our objection to this application. However, if there is any excavation or construction on this site it should include archaeological investigation.
  - KNRA try to hold the right balance between everyone having the opportunity to develop our homes/business against the preservation of what keeps the character of the village as a rural village as outlined in the development hierarchy. We have attempted to discuss this application with the applicant but they did not wish to enter into discussion and have relied on their planning advisor on this application. We did offer to speak with their advisor but was told that this was not appropriate in the applicant's opinion.
  - The application seems to imply that the advisor has consulted with SDDC as they have put "yes" and Mr in the form, but we are unclear who they have been in touch with.

Councillor Fitzpatrick has advised that several residents have expressed their concerns with regards the conservation of the open courtyard that sits between the properties of 79,77 and 75 Main Street. The main points raised being:

- The proposed division of the yard will neither preserve or enhance the conservation area and that in our own SDDC conservation documentation we specifically draw attention to the conservation of linear, L and U shaped courtyards.
- The current open character of the yard makes a positive contribution to the conservation area.
- The potential for a new wall across the farmyard raises serious concerns over what might be affordable and how in-keeping with a conservation area that would be.
- Main Street in Kings Newton has been described "As one of the most attractive village streets in Derbyshire" and there is very strong local feeling to try and keep the area as unspoilt as possible.
- It is also felt that erection of gates to the entrance to No.'s 79 and 77, will change the open farmyard aspect.
- One resident with building knowledge believes the foundations for the wall could seriously damage the roots of the existing protected Lime Tree, another key feature of Main Street. (increasing the likelihood of killing the tree and undermining its structural integrity).
- Even at 6am Main Street has regular traffic flows and by the "rush hour" it has a constant flow of traffic who see this street as a "rat run" through ton East Midlands gateway and the M1.
- The local speed watch volunteer group have recorded regular excess speeding in this vicinity. The straight nature of the road can fool drivers into thinking there are no hazards. There have been two accidents in this area in recent times with one a driver driving straight into a skip legally placed and illuminated on the road, the second a driver not seeing a delivery van and driving up its ramps when delivering. (photographs supplied).
- The greatest concern with this planning application is that the division of the courtyard and the planned wall will make access to the road from the properties 75, 77 and 79 much more difficult and could even result in some cars having to be reversed blindly into the road. Concern about accessing parking bays have also been raised.

- A site visit demonstrated the current practice where any residents uses the safest access onto Main Street and uses the central courtyard space to ensure vehicles are turned and head out onto Main Street facing forward.
- The area directly in front of properties 75,77,79 Main St is used as a bus stop for the Chellaston School bus and there would be significant concerns for bringing additional risk to pedestrians in this area.
- Cars parked along Main Street also prevent good splay visibility from the entrances to these properties (viewed from traffic coming from the North of Main St) so again there would be significant fears over highway safety in this area if these plans went ahead.
- There may potentially be a boundary dispute between the residents at No's 75 and 79 over the exact demarcation of the courtyard and if the resident at No. 75 is correct then the proposed wall position would have to be changed.

The application has attracted a lot of local opposition and the comments received are very detailed – there has been 12 representations from 11 individuals. Many of the objector's comments are repeated individually and cover the same issues which in essence are as follows:

- a) The pedestrian and vehicular gates will dramatically alter the appearance of the street scene and be detrimental to the Conservation Area.
- b) The position of the vehicular gate will not allow a car entering the courtyard to pull fully off the road, creating a potentially dangerous highway situation.
- c) The highway requirement is for entrance gates to be set back some 5 metres.
- d) The existing entrance is used for vehicles servicing the field beyond and is used for agricultural vehicles, tractors, trailers etc.
- e) The design, scale and detail of the proposed porch is inappropriate and would not be an asset to the conservation area.
- f) Porch is unsympathetic to the linear form of the buildings and of a complex and awkward form with no convincing justification for the harm and only private benefits.
- g) 77 Main Street has not been surveyed and 2 principle windows would be affected by the porch projection.
- h) The garage at No. 79 has not been surveyed – this garage is used for storage of vintage motorcars rather than garaging for the dwelling.
- i) Subdivision of the farmyard will neither preserve or enhance the conservation area. The open character of the yard is a large part of its positive contribution and it is still legible as a former farmyard.
- j) Introducing a physical brick boundary wall, fence or hedge would destroy the open nature of the historic courtyard.
- k) The physical boundary would impair the ability for 75 and 77 Main Street to manoeuvre and exit the site safely in a forward motion.
- l) The construction of a boundary wall and alterations to the access will affect the root system of the protected trees.
- m) A proper tree survey should be included with the application.
- n) The proposal does not take into account the highway safety impact on other users of the access and the fact that it would mean cars would need to back out onto Main Street. This would be exacerbated by parked cars.
- o) Many cyclist use Main Street to access the Cloud Trail cycle track as do runners, walkers, mums with pushchairs and toddlers heading to the nearby school and nursery.
- p) The Chellaston school bus picks up and drops off immediately outside the access.
- q) Main Street is very busy with fast moving cyclists, people heading to work, delivery vans and the Donington Racetrack traffic for events and concerts.
- r) Recent building around Kings Newton and the nearby East Midlands Airport has added to traffic on Main Street, a busy commuter route for the airport, new rail hub and the M1 junction.
- s) The scale of the proposed plans is highly misleading and suggests the yard is bigger than it is.
- t) The line of the proposed wall encroaches onto an objector's land.
- u) There would not be enough room to pass the proposed porch without hitting the proposed wall nor could a car back out of a parking space without hitting the proposed wall.

- v) Tractors, hay deliveries and regular riding of horses in and out of the access would be affected by the narrowing of the field access.
- w) The proposed gate would cause an obstruction.
- x) The proposal would damage a rare example of a horseshoe shaped courtyard which dates back several hundred years and which adds charm to a much-loved village.
- y) The so-called 'porch' is large, inappropriate and destroys the line of the old building.
- z) The porch would change the aspect of 2 windows at No. 77 and reduce natural light.
- aa) The footings for the new wall would affect the health and stability of the 2 protected lime trees.
- bb) For 20 years, residents and visitors have used the shared yard to turn cars so a safe forward exit can be made.
- cc) The proposal will alter the open courtyard with views and access to a field beyond to an enclosed gated appearance that will spoil the village and contravene the conservation area status.
- dd) Exiting the farmyard in a reverse motion without being able to see oncoming vehicles, cyclists or pedestrians could potentially cause a serious accident.
- ee) Several accidents have been witnessed and attended outside the existing access.
- ff) With no speed cameras, speed bumps or other speeding deterrents cars are often travelling well above a safe speed limit.
- gg) It would be impossible for 4 vehicles (3 at No. 75 plus 1 regular visitor) to manoeuvre past each other to get to the access.
- hh) The objector is disappointed that the applicants did not consult with neighbours prior to submitting the application.
- ii) Although not an original feature, the demolition of the existing porch would be detrimental to the frontage of the historical farm labourer's cottage.
- jj) The proposed replacement room is unsympathetic and would change the buildings overall appearance.
- kk) The straight nature of the road encourages drivers to exceed the 30mph speed limit resulting in a least 2 accidents in recent history (one driving into a skip and another up the ramp of a parked delivery truck).
- ll) The application will create major parking problems within the site and on Main Street exacerbating the existing problems on this rat run.
- mm) Main Street is particularly busy at weekends due to nearby events and when there are problems on the A50 as it is used as a cut through route.
- nn) Vehicles parked in the narrow driveway will impede emergency vehicles – at present all 3 properties in the complex can be serviced at speed and in total safety.
- oo) The farm is an ancient one that had belonged to the Hardinge Estate based at Kings Newton Hall and was bought by the Melbourne Estate in 1734 who retained ownership until 1919. No. 79 was a separate cottage amongst the outbuildings and the main farmhouse (now No. 75), which has the appearance of a 1920s house and part of the earlier farmhouse incorporated in it, is outside the conservation area (CA). The CA boundary makes a rather artificial distinction between the farmhouse and yard and the buildings that belong to it. In reality they should be appreciated as complementary parts of a single whole.
- pp) The Kings Newton CA Character Statement specifically draws attention to "long ranges of farm buildings that survive substantially unaltered, creating linear, L and U-shaped courtyards".
- qq) Both accesses have been used as exits/entrances and as pedestrian walkways since August 2000.
- rr) Security cameras show that the applicants and their visitors use the neighbours access on a regular basis and mutual use has never been a problem before.
- ss) When tractors or other large agricultural vehicles use the courtyard to access the field, they always encroach on a line that is beyond the proposed boundary wall alignment.
- tt) The protected lime trees are located on land owned by an objector who remonstrates that the applicant has previously cut the easternmost tree to have its height. The applicant has never cut branches that overhang the pavement or swept up fallen debris from the tree.
- uu) An objector was advised only last year by a tree surgeon that the widening of the access would adversely affect the trees and would not be allowed.
- vv) The 2 protected lime trees (designated in 1969) are the only surviving trees on the north side of the street of rows previously planted during the winter and spring of 1856. The surviving trees

are mentioned in the Kings Newton CA Character Statement as forming a striking contrast in views along Main Street.

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets), Policy INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Kings Newton Conservation Area Character Statement 2011 (CACS)
- Derbyshire County Council, Highways Development Control – Standing Advice for Local Planning Authorities, January 2021 (CHA/SA)

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 issue(s) central to the determination of this application is/are:

- The impact on the character and appearance of the conservation area;
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area;
- Highway implications;
- Impact on protected trees; and
- Other issues raised through publicity.

### **Planning assessment**

#### The impact on the character and appearance of the conservation area

The property is unlisted and is visible from the public realm via a shared driveway with 75 and 77 Main Street. The existing open porch projection is just visible from Main Street attached to a range of buildings which tend to sit along different building lines. The proposal is to remove the existing open porch and construct a front projecting gabled extension to act as an enclosed porch, with a small lean-to open porch alongside in a similar position to the existing. The existing oak framed porch is potentially quite recent as it does not appear on any historic maps but it is a lightweight and small projection so may have been omitted. The masonry providing some enclosure around its base is certainly not of any great age, unless it has been largely rebuilt at some point although it is reasonably well executed.

The proposed extension would be modest in scale with the same eaves and ridge height as the converted agricultural range which forms part of the dwelling to the north of the existing porch. The proposed materials include stonework in the lower sections and matching brick above with slate for the roof. Subject to a materials condition, the proposed porch element of the proposal would preserve, and not harm, the special architectural and historic character and appearance of the conservation area, achieving the desirable objective within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The original application also included proposed alterations to the highway fronting boundary wall, which would be sympathetic to and in keeping with the character of the existing wall, and the erection of a boundary wall within the site itself. The front boundary wall proposals have subsequently been amended on 15th March 2021 (to comply with highway requirements – see below) and these amended details, together with the original details for the boundary wall within the site, are not considered to cause harm to the character and appearance of the conservation area, achieving the desirable objective within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

As such the proposals, as amended, would conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP2 in that the heritage asset would not be harmed and the positive contribution that the host property makes to the historic environment would be preserved.

#### The impact on the living conditions of the adjoining properties and the general character and appearance of the area

The proposed single storey porch extension would be classed as a non-habitable structure and it would present a blank north elevation towards the frontage of the closest neighbour (77 Main Street) such that this neighbour would not be adversely affected and the current privacy levels would be maintained in line with the Council's SPD.

There is adequate separation between the west side of the proposed porch extension, where window openings are proposed, and the frontage of 75 Main Street to the west side of the site to meet SPD guidelines and the existing privacy levels would be improved by the erection of the proposed boundary wall between these 2 plots. As such this neighbour would not be considered to be adversely affected by the proposals in line with the Council's SPD.

The application property is perpendicular to the existing highway and the proposed sympathetic and in scale porch would be set back within the site such that it would not adversely affect the existing street scene or the general character of the area. The proposed boundary walls and pedestrian gate would be in keeping with the local vernacular of boundary treatments such that the general character of the area would not be harmed.

The proposal, as amended on 15/03/2021, would therefore be considered to be in accordance with the requirements of NPPF and with the objectives of Policy BNE1 of the LP1 and Policy H27 of the LP2 in that the development would be in keeping with the scale and character of the existing host and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

#### Highway implications

The originally submitted application included alterations to the front boundary wall to construct return wings and to hang new pedestrian and vehicular gates. The County Highways Authority (CHA) standing advice requires that any new vehicular gates at a domestic access should be set back from the highway boundary by 5m. The originally submitted plans denoted the new vehicular access gates at a distance of 2m back from the highway edge and as such would be considered unacceptable with regard to highway safety. The applicant declined to omit the proposed gates and the new sections of the walls (both to the frontage and that internally dividing the site) from the proposal as suggested by the case officer due to the volume of objections received in relation to these elements of the proposal and it was requested that the application be assessed in its amended form as shown on the plans received on 15th March 2021.

The existing open vehicular access is 5.29m wide and the proposed boundary alterations, as amended on 15/03/2021, would reduce this opening to 3.7m which would be above the CHA minimum standard of 3.2m for a shared access. As such it is not considered that the amended proposal would conflict with the CHA's standing advice and the proposed access would be considered acceptable in highway terms.

The existing access is already substandard as the existing 2-storey outbuilding of No. 75 to the east of the access immediately abuts the pavement such that visibility in an easterly direction is already

impaired and the existing west side stone wall of this access also obstructs visibility in a westerly direction. The proposed inward opening east side pedestrian gate and the 2 proposed return walls off the existing access walls would be at the same height as the existing walls at 1.5m and their positions would not make the existing situation any worse than it is at present. As such, it would be considered that an argument for refusing this aspect of the [amended] proposal could not be sustained.

The proposed stone return wall to the west end of the existing west side highway fronting wall, which would continue as the proposed internal site boundary, would be at the same height as the existing wall for a distance of approximately 1.9m back into the site at which point the proposed boundary wall between the application site and 77 Main Street would increase to a height of 1.9m. The lower stone wall of this proposed boundary treatment would end in line with the return walls that are proposed either side of the vehicular access and the increase to a proposed height of 1.9m at this point would not cause any increased conflict with the current substandard access. It should be noted that boundary walls that do not front a public highway can be erected to a height of 2m without the need for planning permission by virtue of Class A of Part 2 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such the proposed internal boundary wall could be erected under the occupier's permitted development rights and the Local Planning Authority would have no control over the materials used. In this instance, the treatment of the proposed internal wall could be controlled so as to ensure that it is in keeping with the character of the area as the applicants could erect close boarded timber fencing without seeking planning permission.

In line with the CHA standing advice the proposed frontage wall alterations, as amended on 15/03/2021, would not result in a material increase in the volume or a material change in the character of traffic entering or leaving a classified highway, would not involve the creation of a new access nor would it encroach onto the public highway. As such, the amended proposal would not be considered to adversely impact on highway safety in line with standing advice and Policy INF2 of the LP1.

#### Impact on protected trees

The proposed front boundary walls would be neither a retaining nor a habitable structure such that footings could be designed to avoid impact on the root systems of the protected lime tree (TPO24 T5). Following a discussion with the Conservation Officer, the Agent has advised [by email on 15th March 2021] that the applicant would be happy with a condition to control the boundary wall works within the root protection area of the tree. This would require a pre-commencement condition so that appropriate details could be secured prior to any works commencing in order to avoid any adverse impacts on the health of the tree.

#### Other issues raised through publicity

The Agent has advised [by email on 24th February 2021] that the applicant has written confirmation from her solicitor that 75 Main Street has no legal right to use the right hand side vehicular access (as you look at the property from the highway). The email also states that the existing turning and access arrangements for 77 Main Street, situated to the north of the application site, would not change and this has been annotated on the submitted plans. The applicant also advises that any reversing or turning of vehicles over the boundary would not be permissible as this would constitute trespassing onto the applicant's land.

In response to the objections raised, a further email was received on 19th March 2021 with a map attachment from the applicants showing the area of land, which is within the applicant's legal ownership, that the occupants of 77 Main Street have a legal right of access over. The proposed development would leave this area as a clear route for the neighbours to access their allocated parking spaces.

A further amended plan was received on 12th April 2021 with a revised red line ownership boundary. The west side boundary line is now aligned with the proposed internal boundary wall and as such it no longer encroaches on to the land that has been identified as belonging to 75 Main Street.

It should be noted that rights of access and land ownership issues are civil matters and would not be classed as material considerations that would outweigh the main issues as assessed above.

The proposal, as amended, would conform to Policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal, as amended, would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 originally submitted plans and documents (unless superseded) received on 15th December 2020 and made valid on 16th December 2020 and amended drawing no. 310.02 Revision B, received on 15th March 2021, and amended drawing no. 310.03 Revision B, received on 12th April 2021; 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.

3. Prior to their incorporation in to the building(s) hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

4. Prior to any pointing commencing, a sample panel of pointed stonework no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

5. No development, including preparatory works, shall commence until a scheme for the protection of the trees within the vicinity of the vehicular access walls has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure that the works are carried out in the best interests of the health of the tree(s).

6. Details of the wall foundations, which shall be designed to avoid negative impact upon the roots of the protected trees, shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. The foundations shall only be constructed in accordance with the approved details.

Reason: In order to minimise damage to retained trees during building operations. Details must be approved prior to the commencement of development to ensure the development is undertaken in way which ensures a satisfactory standard of tree care and protection.

7. The works shall be carried out in accordance with British Standard 3998:2010 - Tree Work (or equivalent document which may update or supersede that Standard).

Reason: To ensure that the works are carried out in the best interests of the health of the tree(s).

Informatives:

**Item No.** 1.2  
**Ref. No.** [DMPA/2021/0201](#)  
**Valid date:** 04/02/2021  
**Applicant:** A Golding **Agent:** JVH Town Planning Consultants Ltd  
**Proposal:** **Change of use of agricultural land for the extension of existing hard standing for external storage (B8) on Land near Brandons Poultry Farm, Unnamed Road From Cote Bottom Lane to Bent Lane, Heathtop, Derby, DE65 5AY**  
**Ward:** Hilton

### **Reason for committee determination**

This report was deferred at the meeting on 1 June 2021. The report below thus remains largely the same as previously published other than additional assessment or comments set out in *italics*, with any now outdated discussion ~~struck through~~.

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

### **Site Description**

The site is land adjacent the existing employment site, part of the runway at the former RAF Church Broughton Airfield. The application site is within the former airfield and the proposed area to be surfaced formed part of the apron to the runway. Although more recently used for agriculture, the site has not been fully assimilated back into agricultural use being poor quality agricultural land and largely open in character. A hedgerow exists adjacent to the highway but the south eastern boundary is predominantly demarcated by post and wire fencing.

### **The proposal**

The proposal is for the expansion of the current hardstanding, part of the former runway, to the south east on land formerly runway apron, but more recently used for agriculture. The hardstanding is to provide additional space for the business to store equipment as part of their future expansion.

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

The Agent's Planning statement sets out the proposal, the planning history and the policy context noting the proposals compliance with planning policy and stating that there are no material considerations that should prevent this proposal from receiving consent.

### **Relevant planning history**

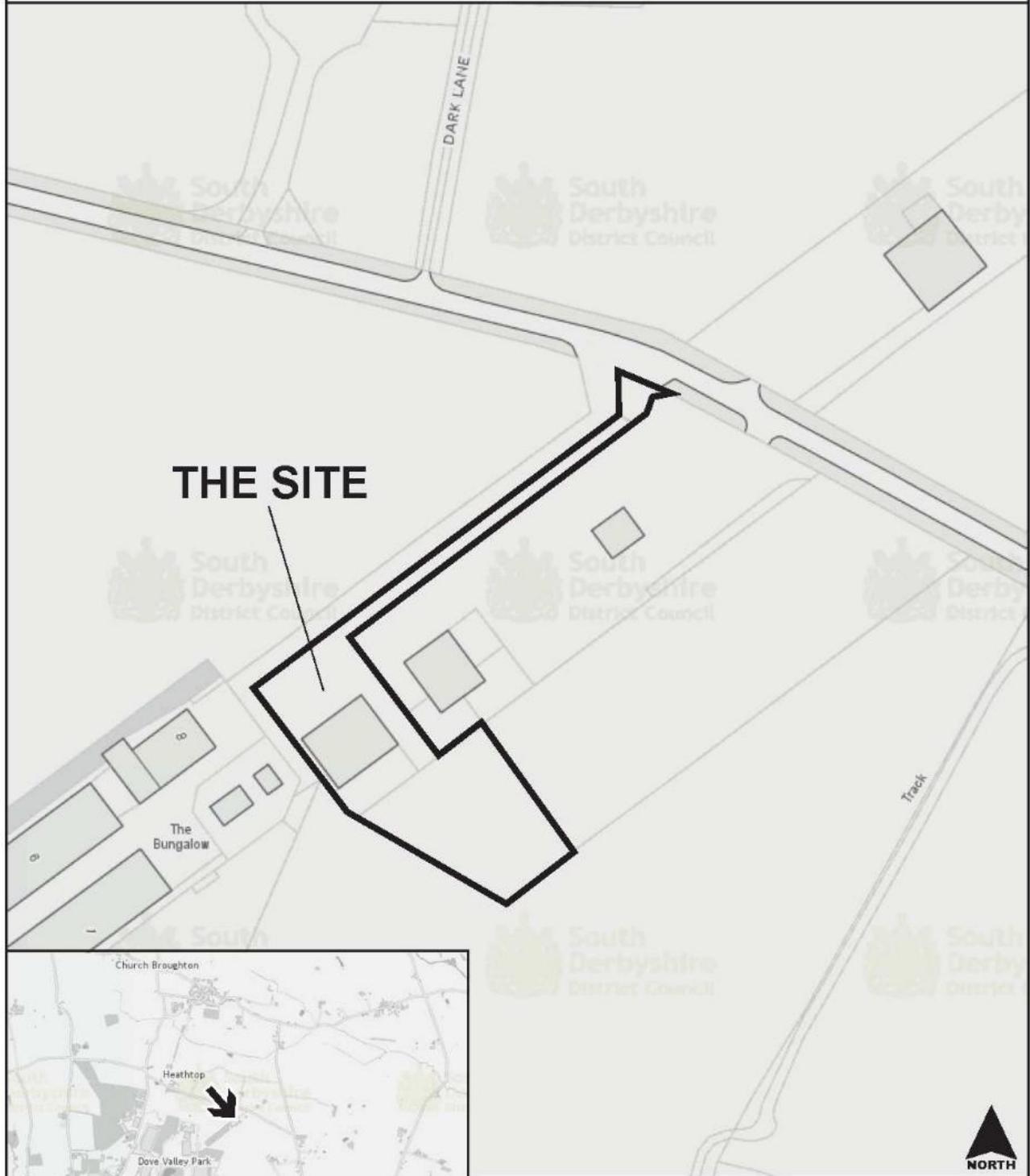
*DMPA/2019/1048 - Change of use of composting site for use of lorry parking and for the stationing of a portacabin office and mobile workshop – Approved 14/02/2020*

9/2018/0441: The erection of a building to form 3 employment units (Use Classes B1(c), B2 &/or B8) - Granted 25/07/2018.

9/2018/0382: Change of use of former operational area of composting site for use as contractors compound for vehicle/plant storage, including stationing of a portacabin office and two storage containers (sui-generis use) - Approved 13/06/2018.

9/2017/1087: The change of use from storage unit to dog day care facility with internal alterations and metal fencing enclosing entire area - Approved 19/12/2017.

**DMPA/2021/0201 - Land near Brandons Poultry Farm, Unnamed Road from Cote Bottom Lane to Bent Lane, Heathtop, Derby DE65 5AY**



**THE SITE**



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9/2017/1082: Proposed temporary change of use of composting site for use for lorry parking and for the stationing of a portacabin office, Granted 17/1/18 (temporary 2 year period).

9/2017/0571: Change of use of former composting building to form B1c/B2/B8 employment units, Granted 25/7/17 (adjacent site).

9/2017/0573: The erection of 310 m of green security fencing and gates front a highway and private way, Granted 24/7/17.

9/2010/0954: The Change of use from B1/B8 use to agricultural / Turkey Rearing, Withdrawn 30/11/10 (adjacent site).

9/2005/0931: The use of the site for B1/B8 (light industry and warehousing), granted 7/3/06 (adjacent site)

Condition 2 required access improvements to the junction of Heath Top with Woodyard Lane /Cote Bottom Lane secured through a Unilateral Undertaking.

9/2004/0877: The change of use of premises from agricultural to storage (B8), Granted 25/2/05 (adjacent site) - Condition 2 required access improvements to the junction of Heath Top with Woodyard Lane /Cote Bottom Lane secured through a Unilateral Undertaking.

9/2004/0840: The retention of a portable building, Granted 23/8/04

*9/2004/1046 - The use of land for a car boot sale – Refused 4/10/2004*

9/2003/1320: The change of use from agricultural to light industrial B1 and storage B8, Granted 5/1/04 (adjacent site).

9/1998/0769: The erection of a cold store and a replacement workshop building at the premises of Brandons Poultry Limited, Granted 18/3/99 (adjacent site).

9/0889/0594: Retention of eight 10m high floodlights on boundaries of premises of Agronomics Ltd, Granted 2/3/1990 (applicant stated use of land – compost- agricultural).

## **Responses to consultations and publicity**

County Highway Authority has no objections subject to a condition being included in any consent requiring the existing parking and manoeuvring space associated with the site to be maintained throughout any construction works and the life of the development free from any impediment to its designated use.

Church Broughton Parish Council has no objections to this proposal.

Twenty three objections have been received, raising the following comments:

- a) Standing water on highway a regular problem.
- b) Road surface along Woodyard Lane is in poor condition, damaged by large vehicles and dangerous for other road users.
- c) Lorries speed on the unnamed road to the site.
- d) Appropriate signage is required to ensure large vehicles do not use Bent Lane.
- e) Commercial development should not be viewed as more important than established residential communities.
- f) A lot of work has already been done - this should be a retrospective application.
- g) This application intrudes into agricultural land - a change of use is required.
- h) A new access appears to have been created.
- i) Road not suitable for heavy lorries.

- j) Additional noise from more traffic.
- k) Should be protecting green space.
- l) More development leads to more litter.
- m) No new jobs as a result of this application.
- n) Incorrect statements in the planning statement relating to road name, location of proposed hardstanding and planning history.
- o) Statement refers to landscaping - this is a small number of very sparse saplings hardly constitutes existing landscaping.
- p) The site was previously refused permission for a car boot sale area.
- q) The proposal does not comply with SDDC policies.
- r) Not compliant with NPPF.
- s) There are other more locationally appropriate sites.
- t) Will harm local wildlife.
- u) Proposal in no way enhances the area.
- v) If any new jobs are created, they will not be for locals.
- w) No site notice was posted.
- x) The land is greenbelt and should be protected.
- y) Creeping of industrial units to the east in appropriate.
- z) Why should we believe that the applicant will comply with the permission.
- aa) Floodlights are currently left on all night.

### **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), E2 (Other Industrial and Business Development), SD1 (Amenity and Environmental Quality), E7 (Rural Development), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside)

National Guidance

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

Local Guidance

- ww) South Derbyshire Design Guide SPD

### **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 issue(s) central to the determination of this application is/are:

- Principle;
- Landscape impact;
- Amenity impact; and
- Highway safety

### **Planning assessment**

#### Principle

LP1 Policy E2 states that development of land for uses classes B1(b), B1(c), B2 and B8 will be permitted where ii) 'the proposal is for the expansion of an existing business;' and that the proposal is 'in scale with the existing built development and would not give rise to undue impacts on the local

landscape natural environment or cultural heritage assets.' The previous established land use, albeit in agricultural use for many years, is a former airfield which is a sui-generis use and would not be usually described as industrial or business, however, whether previously developed or not, Policy E2 does not differentiate between previously developed or greenfield land.

Industrial uses have been granted for the existing farm in 2005, the existing composting building in July 2017, the frontage site for lorry parking in January 2018 (9/2017/1082) and construction compound (9/2018/0382). The land to the north west is allocated for employment uses and committee were minded to approve outline permission for four B2/B8 buildings subject to a S106 in May 2018. The application site is therefore set within the context of large scale employment buildings and thus would be in scale with existing buildings and the landscape impact is considered to be limited. On the basis of the former use and industrial character of the site it is considered that the proposal complies with this Policy.

The site is located within the countryside (albeit surrounded on two sides by the employment allocation in LP1 Policy E5) and as such LP1 Policy E7 and LP2 Policy BNE5 are relevant. Policy E7 supports development proposals which diversify and expand the range of sustainable employment activities on land outside settlement boundaries provided they support the social and economic needs of rural communities within the district. The Policy goes on to state that proposals for the re-use, conversion and replacement of existing buildings and development of new buildings will be supported where they meet criteria in terms of a sound business case, highway impact, impacts on neighbouring land, design and scale and visual intrusion.

LP2 Policy BNE5 states that outside settlement boundaries planning permission will be granted where the development is allowed by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28, otherwise essential to a rural based activity, unavoidable outside settlement boundaries, infill of dwellings and will not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

The proposal involves the expansion of an existing employment site adjacent to an allocated employment site and the proposal is considered to be a sustainable development as the local highway network is capable of accommodating the traffic generated, neighbouring land is industrial on two sides, the adjacent uses are similar and as such would have limited impact on the on the character of the locality and would be partially screened by these uses. In general terms the proposal is considered to comply with the overarching aim of this policy.

#### Landscape impact

LP1 Policy BNE4 states that the character, local distinctiveness, and quality of the district's landscape will be protected and enhanced through careful design and sensitive implementation of new development and development that will have a unacceptable impact on landscape character, visual amenity and sensitivity cannot be satisfactorily mitigated will not be permitted. It is acknowledged that the site is open and flat with little natural screening, however, the harm on the surrounding landscape is considered to be limited due to the site's existing character and context. It would be viewed in context with the large industrial buildings to the south west. A previous permission did require some planting to be implemented on the southeastern boundary but this would have little effect in substantially obscuring the open storage. Additional landscaping would help and is added as a condition, details of which would be required prior to first use of the additional hardstanding. With such additional landscaping in place the proposal is considered to comply with criterion v) of E7 and BNE4.

#### Amenity impact

LP1 Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. LP1 Policy BNE1 h) requires that new development should not have an undue adverse effect on the privacy and amenity of existing nearby occupiers. The proposed hardstanding is a modest extension to the existing business that will not change the way that the current occupier works but merely provide additional capacity enabling the storage of more equipment. On the basis of the incremental increase in external storage space, it is considered that it would be difficult to demonstrate that the impact was 'significant adverse'

in terms of the NPPF paragraph 180 and the Noise Policy Statement for England. A condition in respect of hours of use already controls the operation of the business and it is considered necessary to repeat this to ensure that all parts of the operation are controlled by this.

#### Highway safety

The applicants Planning Statement states that the expansion of the existing hardstanding is to provide additional storage space. The access remains unchanged being from within the established 'business park'. As such the Highway Authority has no objection to the proposal subject to a condition being included in any consent requiring the existing parking and manoeuvring space associated with the site to be maintained throughout any construction works and the life of the development free from any impediment to its designated use. The proposal is therefore considered to comply with INF2 of the Local Plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 drawing refs. 852-01 (Location Plan); 852-01 (Block and Location Plan); 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. Heavy goods vehicles shall not operate from the site outside of 0600 to 1800 hours Monday to Saturday, nor at any time on Sundays, Bank or Public Holidays

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

4. Prior to the first use of the new hardstanding hereby permitted the existing parking and maneuvering area shall be retained and maintained as laid out in accordance with previously approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout any construction works and the life of the development free of any impediment to its designated use as such.

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

5. Prior to the first use of the new hardstanding an enhanced scheme of hedgerow and tree planting shall be submitted to and agreed in writing by the Local Planning Authority. In the first planting season following the formation of the hardstanding, a new enhanced mixed native species hedgerow, including native hedgerow trees, as set out in the approved scheme shall be planted on the southwest and southeast boundaries of the site extending back towards the highway and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be

replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

6. Notwithstanding the submission of the boundary hedge details required in Condition 4 above, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the enlarged hardstanding to which they serve is first brought into use or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

Informatives:

**Item No.** 1.3

**Ref. No.** [DMPA/2020/0231](#)

**Valid date:** 17/03/2020

**Applicant:** Andrew Malkin

**Agent:** JMI Planning

**Proposal:** **The erection of a rural worker's dwelling with associated works on land at Buckford Lane Livery, Unnamed Road From Twyford Road To Buckford Lane, Stenson, Derby, DE73 7FW**

**Ward:** Stenson

### **Reason for committee determination**

This item is presented to the Committee at the request of Councillor Churchill as it is considered the Committee should debate the issues in the case which are finely balanced.

### **Site Description**

The site is accessed off Buckford Lane and comprises of stabling in a block formation, associated barns for the storage of feed and equipment, an outdoor manage and grazing paddocks. The site is fairly flat with an incline downwards towards the south across the paddocks. The Pine Lake facility is located to the eastern area of the site and there are residential barn conversions located in a north eastern direction from the site.

### **The proposal**

Permission is sought for the erection of a rural workers dwelling to serve the manager of the Equestrian Livery Yard business at the site. The additional dwelling is proposed on the basis that it would be to support the Equestrian Livery Yard business.

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

#### Planning Statement

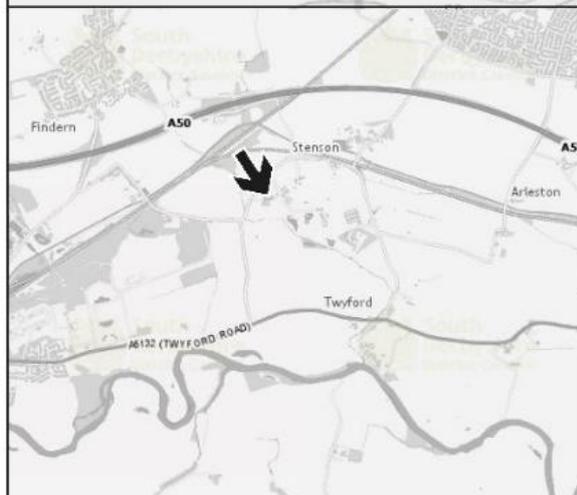
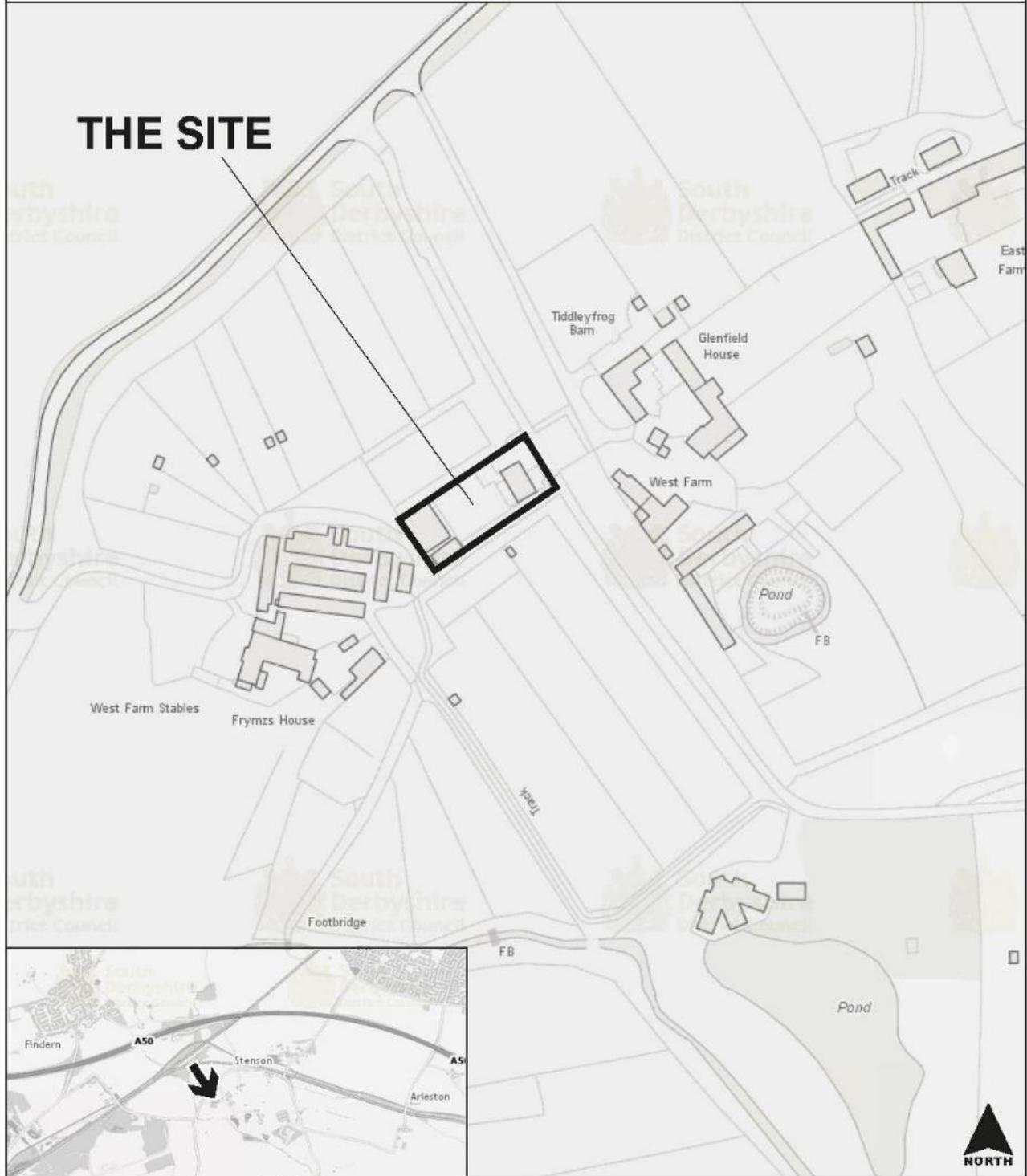
The livery yard is an established and profitable business and this statement and the associated appraisal demonstrates that there is a requirement for a permanent presence on site to support the operations of the yard. The proposed dwelling is of a scale to support the applicant and their family including dependents and will have a negligible impact on the rural surroundings and will not harm the character of the countryside. The scheme will not impact on the amenities enjoyed by the occupiers of nearby dwellings and does not prejudice the safe and efficient use of the adjoining highway network. No issues are raised in relation to protected species or with regards to trees or hedgerows on or adjoining the site. The scheme complies with the relevant requirements of the National Planning Policy Framework and the South Derbyshire Local Plan parts 1 and 2.

#### Justification Planning Document

The extent of the stables and grazing area extends some 10.77ha with up to 35 stables together with tack room, secure storage building and menage. Currently, there are 35 stables available on either a full or self-livery basis and there is a tack room building and secure storage, primarily for fodder and feedstuffs. There are cctv cameras located around the complex which has become necessary due to the rise in rural crime. There is a menage and an exercise/training paddock and the remainder of the land is laid out to pasture. Grazing areas are marked out with moveable electric fencing. The present landholding would appear to be adequate for the current business. The various facilities and services referred to here have undoubtedly added to the ongoing success of the business.

**DMPA/2020/0231 - Buckford Lane Livery, Unnamed Road from Twyford Road to Twyford Road to Buckford Lane, Stenson, Derby DE73 7FW**

**THE SITE**



**South Derbyshire District Council**

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**South Derbyshire District Council. LA 100019461.2017**

Planning permission has been obtained by the Applicants to replace the current stables, which are nearing the end of their economic lives, under reference number DMPA/2019/0837 dated 18th October 2019. This conditional permission also includes the provision of a second menage and alteration to the access to the stables. These items have been costed and will be fully funded primarily by way of a business development loan comfortably serviced by current and future income levels. The net income will still provide a living wage and profits for further business enhancements.

### **Relevant planning history**

9/2019/0424 – The erection of a rural workers dwelling with associated works - Refused - 25/10/2019

DMPA/2019/0837 - Replacement of timber stabling with new stabling together with nominal layout change to facilitate phased replacement and additional stables, provision of a second menage and adaptations to entrance drive route (no highway exit change - existing head to be used - Approved with conditions - 18/10/2019

### **Responses to consultations and publicity**

The Environmental Health Officer has raised no objections subject to conditions relating to the contaminated land prevention and ground gas ingress details as well as the proposed hours of construction.

The County Highway Authority has raised no objection subject to conditions relating to the parking and manoeuvring area and for this to be laid out prior to the first use of the proposed dwelling.

One letter has been received from a member of the public which comments that the boundary appears to be incorrect and should include the adjacent residential property.

### **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), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence) and INF2 (Sustainable Transport).

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H25 (Rural Workers Dwellings) and BNE5 (Development in the Countryside).

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**

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 development;
- Essential need and business justification;
- Visual impact and impact on amenity; and
- Highway safety matters.

## Planning assessment

### Principle of development

The site is located outside of a settlement boundary and would represent housing development in the open countryside. Whilst the principle of the erection of an isolated dwelling in the open countryside would be considered unsuitable, there is scope within policies H25 and BNE5 of the Local Plan, as well as paragraph 79 of the NPPF, for the erection of a rural workers dwelling where it has been demonstrated to be essential to a rural based business and would not have a harmful visual impact on the character of the surrounding countryside.

In order for the principle of the development to be deemed acceptable under policy H25, it would be necessary to demonstrate that there is an established essential (functional) need for a worker to reside at the site in order for the business to operate. It would be necessary to demonstrate that the business and enterprise is existing and established and would be likely to remain sustainable and would support the proposed dwelling. This is to ensure that the business that underpins the need for the proposed dwelling would have sufficient longevity - if the rural based business were to fail, this would result in a vacant, isolated dwelling within the countryside. In addition, it would also be necessary to demonstrate that there would be no prospect of meeting the need by utilising an existing dwelling in the locality.

### Essential need and business justification

Essential Need: Policy H25 i) of the Local Plan stipulates that there would need to be an “established existing essential need for an additional worker’s dwelling to support a rural based activity” and the proposed development would need to demonstrate that the rural business would be dependent on the erection of a new dwelling to provide on site provision.

The business in question is an equestrian livery yard, which currently operates as a combination of a DIY livery; where owners travel to the livery yard at least twice a day to care for their horses and Full Livery; where owners pay for their horses to be looked after on site by the owner of the livery yard or people employed by them. For full liveries, this shifts the care requirements of the horses from the horse owners to the livery yard itself. There are currently 26 DIY liveries on site and 9 full liveries on site, of which the full care requirements for the full liveries is provided by the site owner and his wife. There would be an animal welfare requirement to provide nightly checks and administer medicines to full liveries and respond to any security threats for the entire stables. On the basis of this, the Agricultural Consultant has confirmed that there would be an essential functional need for the owner to reside on the site with regard to the full liveries. The need for animals to be protected from pain, suffering, injury and disease would provide additional challenges for a worker who would be remote from the stables site and the welfare of the horses kept as full liveries would be the responsibility of the site owner who oversees their care. Whilst there are already 9 full liveries on the site, the submitted justification details by the applicant show that there is an intention to increase the number of full liveries at the site and reduce the number of DIY liveries in the long term.

Owing to the need to provide on site care to horses on full livery, this would generate a significant animal welfare requirement and the business would require a twenty four hour presence on the site which would fully accord with part i) of policy H25 of the Local Plan.

Financial sustainability: Policy H25 ii) of the Local Plan stipulates that “the rural-based activity has been established, is economically sustainable and has the prospect of remaining so.” It would be necessary to demonstrate that the proposed business is economically sustainable with sufficient longevity to support the building of the proposed dwelling and that it would provide a livelihood for the worker who would be living in the proposed dwelling.

A full business case and details of the financial turnover has been formally assessed by the Agricultural Consultant who has raised concerns relating to the financial information that has been submitted by the applicant and that there were losses made by the equestrian livery business between 2018-2019 and owing to this, the Agricultural Consultant would recommend that the proposed dwelling would be of a temporary and reversible nature for a three year period, not a permanent dwelling which is what the current application seeks consent for.

The rationale that underpins the requirement for financial details to be submitted is to demonstrate that the business shows a trend of growth and the financial details would provide a key indication that the business would be viable to support the proposed development in the long term and thereby showing

that the business would be “economically sustainable and has the prospect of remaining so” in accordance with part ii) of Policy H25 of the Local Plan.

The site has operated as a equestrian livery yard for in excess of 20 years, with the original dwelling that served the livery yard severed from the livery business before the livery yard was taken over by the current Business Owners in 2014. The person who resides in that dwelling now has no connection to the livery business. Despite a change in ownership, the equestrian livery yard has continued to operate from the site for in excess of 20 years. Whilst this is not proven through the submitted financial records of the last three years, the continued presence and expansion of the equestrian livery yard business for such a long period of time shows a strong indication of the business’s longevity. This presents a finely balanced issue in that the proposed dwelling could not achieve full compliance with part ii) of policy H25 of the Local Plan, owing to the lack of financial records to demonstrate economic sustainability over recent years to support a permanent dwelling. However, the length of time that the business has been operational does demonstrate the established nature of the business and the likelihood of this remaining so, as well as the continued expansion and long term survival of the business, which would, by default, support the case that the business is of sufficient financial sustainability to support a permanent dwelling.

In addition, substantial upgrade works have been carried out at the site following the granting of planning application DMPA/2019/0837 for the replacement of the existing stables with improved stabling owing to its age and condition, of which this work has been carried out in a phased system to replace the old stabling whilst being able to continue to operate the livery yard business. In addition to this, a recent site visit has been carried out which has shown that there has been a significant amount of investment into the livery business, not only to upgrade the existing stabling but to improve the fields and riding facilities on site, of which, the owners have confirmed that this has been funded through the profits of the livery business and a business development loan which would be easily covered by future income levels. This investment in the rural business’s infrastructure demonstrates the long term commitment of the owners to the rural business and offers a plausible explanation for the loss of profits raised by the Agricultural Consultant in recent years with profits being put back into the stabling and infrastructure.

Given the continued length of time that the business has functioned, in combination with the extent of works that have been carried out to improve the existing stabling and facilities long term; this draws a strong indication that the equestrian livery business would be capable of financially supporting the long term use of the proposed dwelling and would accord with policies E7, H25 i) and iii) and BNE5 of the Local Plan.

Existing dwellings within the locality: Policy H25 iii) of the Local Plan stipulates that “the essential need cannot be fulfilled by an existing dwelling in the locality”. Based on the information that has been submitted, there would be no alternative dwelling in the nearby locality that could serve as alternative accommodation.

The rural workers dwelling which originally served the livery yard when its use began has now been severed from equestrian livery yard business prior to 2014 and is currently no longer part of livery business. The applicant currently rents a property which will no longer be available to them and there are no alternative rentable properties nearby that could be utilised instead. In addition, there are no existing buildings on site that would be capable of conversion as these are all currently used to serve the livery yard business. On the basis of this, there would be no alternative dwellings in the locality that could be utilised instead of the proposed dwelling and the proposed development would fully accord with part iii) of policy H25 of the Local Plan.

#### Visual Impact and Impact on Amenity

The proposed dwelling would be single storey in height and would be located closely to the existing stables. The position of the proposed dwelling would be located close to existing buildings and would not encroach outside of the current envelope of existing buildings which would screen the proposed dwelling from the wider area.

Concerns have been raised by the Agricultural Consultant regarding the extent of the footprint of the proposed dwelling and that it should be reduced to be commensurate with fulfilling the need to for the livery business. However, the proposed dwelling has been designed to accommodate the owners of the livery yard and their elderly parents who they care for and therefore, provides extra rooms as an informal and integral annexe on this basis. Owing to this care need and the limited visual impact of the proposed dwelling; with the position of the proposed dwelling being sympathetic to the open, rural character of the surrounding area, the proposed dwelling would not have a harmful visual impact and would comply with policies BNE1 and SD1 of the Local Plan and the principles within the Councils Design Guide.

The proposed dwelling would be located at some distance from neighbouring residential properties and would be closely located to the existing stables buildings in order to fulfil its functional need. The proposed dwelling would be single storey and would have no harmful impact on the amenity of neighbouring residential dwellings by way of overshadowing or overlooking and would fully accord with the principles of policies BNE1, SD1 and the Councils Design Guide.

#### Highways safety matters

There have been no objections raised by the County Highway Authority, of which the existing access would accommodate a safe and suitable access and that the proposed dwelling would create a minimal traffic flow and would therefore, comply with policy INF2 of the Local Plan.

#### Conclusion

The Agricultural Consultant has raised concerns about the lack of complete financial records submitted and the financial longevity and sustainability of the business and has recommended a temporary dwelling for a three year period. However, this is balanced against the age of the business, and whilst it cannot demonstrate the desired growth within the last three year window, in context, the continued presence of the equestrian livery yard business for in excess of 20 years demonstrates a track record of sustainable growth over a long period of time which would support a permanent dwelling on site. There has been a significant amount of profit being fed back into the business to improve the facilities which substantiates the owners long term plans for the business. There would be an identified, essential need to reside on the site to ensure the welfare of the animals and there are no alternative dwellings in the locality that could be occupied instead. The proposed dwelling would have a minimal visual impact and would not have a harmful impact on the amenity on neighbouring residents. The proposed development would accord with policies BNE1, SD1, INF2, E7, H25 i) and iii) and BNE5 of the Local Plan and on balance of the issues above, it would be recommended to approve the proposed development subject to planning conditions.

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 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 plans/drawings ref. Site Location Plan, PL002 Rev 1, PL003 Rev 1 and PL010 Rev 1; 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 occupation of the dwelling hereby approved shall be limited to a person solely or mainly working, or last working, in connection with the equestrian livery business as submitted as part of this application, or a widow or widower or surviving civil partner of such a person and to any resident dependants.

Reason: To reserve suitable residential accommodation for persons employed locally in agriculture or equestrian uses, in the interests of strictly limiting the creation of dwellings in the countryside in line with the Development Plan.

4. No development shall take place until a suitable scheme for the prevention of ground gas ingress shall be submitted to and approved in writing by the Local Planning Authority (LPA) as part of planning application. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted. submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

5. If during the works contamination is encountered which has not previously been identified, then the contamination shall be fully assessed in an appropriate remediation scheme submitted to and approved in writing by the local planning authority.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

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

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

7. During the period of construction there should be no clearance of vegetation by burning, or disposal of other materials by burning owing to the proximity of neighbouring sensitive receptors.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers

8. Prior to their incorporation in to the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: To protect the visual amenity and character of the area.

9. Prior to their incorporation in to the building(s) hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The [eaves, verges, cills and lintels] shall be constructed in accordance with the approved drawings.

Reason: To protect the visual amenity and character of the area.

10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: To protect the visual amenity and character of the local area.

11. No dwelling shall be occupied until space has been laid out within the site in accordance with the approved drawings for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. These facilities shall thereafter be retained for use at all times.

Reason: In the interest of highway safety.

12. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

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

Reason: To ensure no net loss of biodiversity and in the interest of the character and appearance of the surrounding area.

14. Prior to the occupation of the development an electric recharging point or future accessibility to the correct electric infrastructure for future electric charge point shall be installed within the site (please see advisory for further information).

Reason: To support a carbon zero district as per Climate Change Act and South Derbyshire District Councils Supplementary Design Guide

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

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

Informatives:

**Item No.** 1.4

**Ref. No.** [DMPA/2020/1212](#)

**Valid date:** 04/02/2021

**Applicant:** Dean Willshee

**Agent:** Marrons Planning

**Proposal:** **Retrospective application to regularise an agricultural building at Shades Farm, Unnamed Road From Geary Lane To Town Farm, Bretby, Burton On Trent, DE15 0RD**

**Ward:** Repton

### **Reason for committee determination**

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to a previous decisions at the site being made by this Committee and subsequently not built in accordance with the approved plans.

### **Site Description**

The application site comprises approximately 0.80 ha of agricultural land, part of a larger agricultural unit associated with Shades Farm, Bretby. Access to the site is via the main entrance to Shades Farm to the east of the application site from an unnamed road accessed from Watery Lane and is edged blue on the Location Plan. The site is elevated from the road and separated from it by other agricultural buildings, residential dwellings and a field and is adjacent to the Bretby Conservation Area boundary that runs along the southern boundary of the application site. The site gently falls away to the west but rises to the north up to the ridge affording extensive views across the Trent valley to the north and to the south across Bretby village. Along the southern boundary of the site is extensive deciduous tree and hedgerow planting forming a boundary to the majority of the site from the south.

### **The proposal**

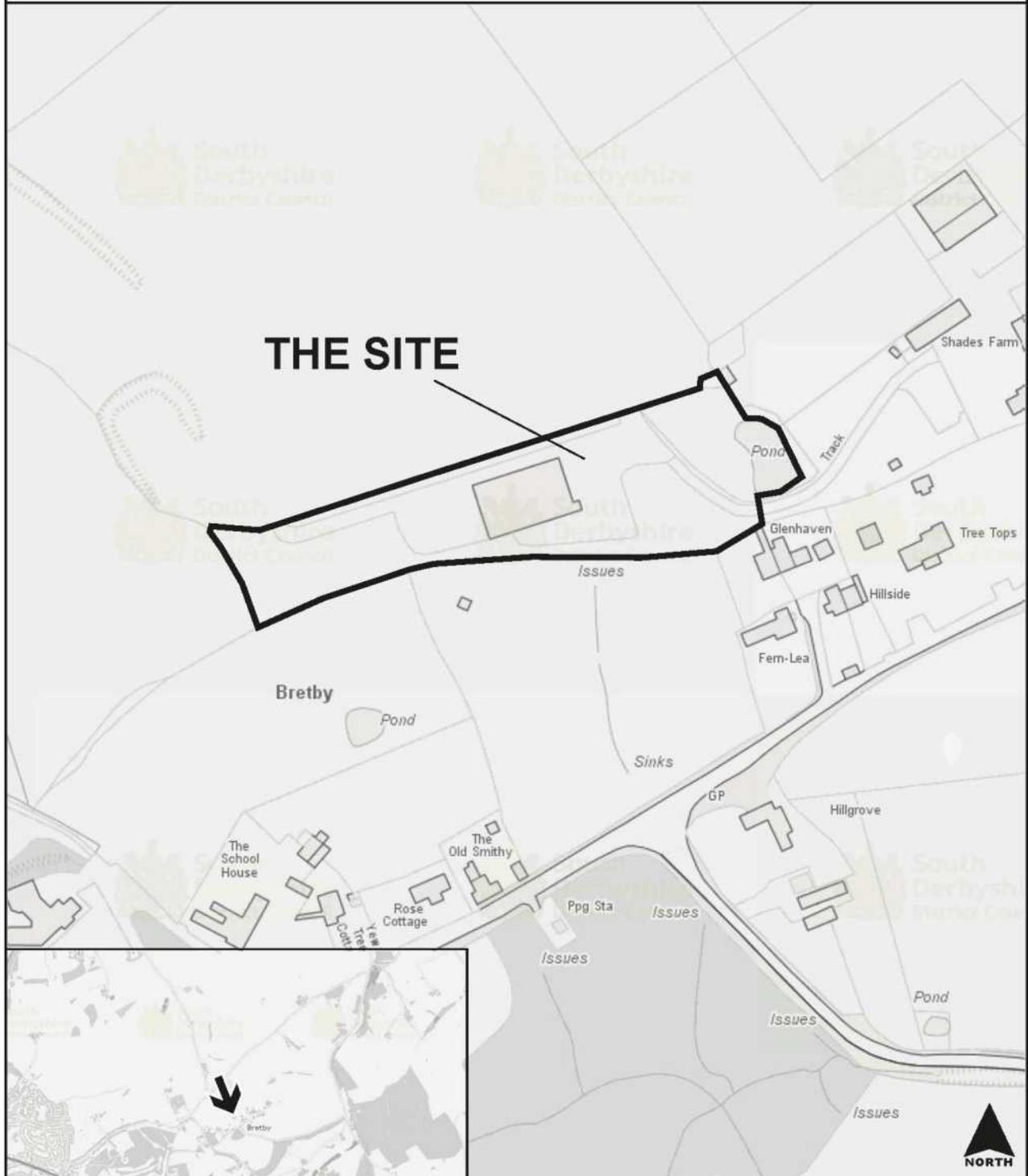
Retrospective consent is sought for the retention of an agricultural storage and livestock housing unit. The building has a total GIA of 924.58 sq m including the small lean-to element of the building at the eastern end. Just as the original building, this larger building is orientated so that the maximum amount of floorspace can be dedicated to the keeping of agricultural products and the housing of livestock.

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

The Applicants Covering Letter prepared by the agent – describes the proposal and sets out the local and national policy context and how it complies with relevant policies in the Adopted Local Plan and its compliance with the relevant chapters of NPPF concluding that the building as built is considered to be wholly acceptable, being well designed using appropriate materials and is located suitably distant from residential receptors. It is considered that it does not give rise to any adverse impacts by way of its siting, design or scale.

The Heritage Statement – considers the heritage effects of the larger building and summarises the legislation and policy relating to heritage and summarises the Bretby Conservation Area and goes on to assess the impact of the proposal on the conservation area concluding that the whilst the proposal would have a minimal impact on the conservation area and as such, this should be balanced against the benefits that the proposal would bring in terms of assisting the viability of this existing rural enterprise leading to a compelling case for the proposed development.

**DMPA/2020/1212 - Shades Farm, Unnamed Road from Geary Lane to Town Farm, Bretby, Burton on Trent DE15 0RD**



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South Derbyshire District Council. LA 100019461.2017

## Relevant planning history

9/2017/0448 - The erection of agricultural storage and livestock housing unit - Approved 9/08/2017. As shown on the submitted plan with the current application, this building will be subject to a retrospective application to regularise what has been built as it is in both a different location and larger than approved.

9/2017/1402 - The erection of eight holiday cabins - Approved 02/05/2018.

9/2017/1403 - Conversion of vacant outbuilding to residential dwelling - Approved 22/02/2018.

9/2018/0340 - Prior Approval for Change of Use of Agricultural Building to Dwellinghouse (Use Class C3) (Including Part Demolition).

9/2019/0321 and 322 - Prior notification for the erection of two agricultural storage buildings - Invalid due to amount of floorspace provision within two years.

DMPN/2019/1170 - Prior Notification for erection of a straw barn - Approved 8/11/2019.

DMPN/2019/1171 - Prior Notification for erection of a machinery storage barn Approved 19/11/2019. This Notification will be resubmitted notifying the Council that the building will be erected in a different location.

DMPA/2019/1255 - Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the demolition of existing building and the erection of a replacement dwelling and realignment of access track for farm vehicles - Refused 28/01/2020.

DMPA/2020/0313 - Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the demolition of existing building and the erection of a replacement dwelling and realignment of access track for farm vehicles - Approved 18/05/2020.

DMPA/2020/0395 - 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 - Under consideration.

DMPA/2020/0448 - The erection of a building to house a biomass plant - Approved 22/10/2020

DMPN/2020/1038 - Prior Notification for construction of a machinery store - Approved 10/02/2021

DMOT/2021/0126 - Approval of details required by conditions 3, 5, 6 and 9 attached to ref. DMPA/2020/0448 (the erection of a building to house a biomass plant)- Pending - expected to be withdrawn following incorrect implementation of the host permission.

## Responses to consultations and publicity

The Environmental Health Officer notes that his previous comments still apply which were that he has no objection in principle to the proposal but notes the close proximity of residential dwellings and recommends conditions relating to a scheme of noise mitigation measures and external lighting for approval prior to occupation.

The County Highway Authority has no objections to the proposal and previously noted that the proposed building is ancillary to the existing use on the site.

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

- a) insufficient justification for the increased size of the building;

- b) Adverse effect on the village of Bretby in terms of noise, smell;
- c) Increased traffic through the village;
- d) Application should be determined by Planning Committee to protect the residents of the village;
- e) Larger agricultural building has a knock on impact on the location of the Prior Notification Building to the east being closer to residential neighbours;
- f) The machinery barn has been built much bigger than approved.
- g) The biomass boiler building was supposed to be detached from the machinery store.
- h) The applicant appears to build whatever he likes.
- i) Noise and vibration from the building construction machinery is horrendous;
- j) Barn too big and looks like an aircraft hanger;
- k) Object that it is the same case officer dealing with this application as the original application.
- l) The original building was rejected at this size.
- m) The obligations of the original permission (including tree planting) have not yet been implemented.
- n) 'Regularisation' of the agricultural building may result in more than the allowed 'permitted development';
- o) Overestimation of the number of cattle at the site;
- p) Industrial style development happening at the site.
- q) Previous commitments should be honoured before further permissions granted.

### **Relevant policy, guidance and/or legislation**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2, (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport),
- Local Plan Part 2 (LP2): BNE5 (Development in the Countryside), BNE6, (Agricultural Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD); and
- Bretby Conservation Area Character Statement (CACS)

The relevant national policy and guidance is:

- xx) National Planning Policy Framework (NPPF); and
- yy) 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:

- Principle of development
- Layout, design and impact on heritage assets
- Neighbour Amenity
- Highway capacity and safety

### **Planning assessment**

#### Principle of Development

An agricultural building was granted permission by Committee in 2017 and therefore the principle of an agricultural building in this location has already been accepted. The previous proposal was reduced in size to that originally proposed during the course of the planning application. However the structure built was considerably larger than approved. This retrospective application must therefore be assessed

as a fresh application, on its merits. However, the fact that an agricultural building was approved in this location is a significant material consideration.

Policy E7 of the LP Part 1 2016 supports development which diversifies and expands the range of sustainable employment activities outside of settlement boundaries provided they support the social and economic needs of the rural communities of the District and provided that the development does not give rise to any undue impacts set out at (ii) to (v). The site is part of an agricultural unit and as such the expansion of the agricultural use is supported. Development outside settlement boundaries is controlled by Policy BNE5. However Policy BNE6 specifically supports new agricultural development provided that:

- *'it is suitable for its intended purpose; and*
- *it is of an appropriate scale and design; and*
- *it is sited in proximity to existing agricultural buildings, wherever practicable; and*
- *appropriate landscape mitigation is included where necessary.'*

Clearly the building has now been in use for its intended purpose for the keeping of livestock and storage of equipment for several years. This larger building is clearly in use and in principle in accordance with E7, BNE5 (ii) and BNE6 (i).

Also relevant to this application is that, following approval of the smaller building in 2017, a change to the maximum size of agricultural building allowed under permitted development in 2018 went from 465 Sq m to 1000 Sq m. Whilst there are many conditions and restrictions attached to prior notification buildings the principle of an agricultural building of up to 1000 Sq m could have been proposed in this location. This current proposal is still within this threshold.

#### Layout, Design and Impact on Heritage Assets

The building, as constructed with a floorspace of 918.5 Sq m, is larger than the originally approved building (541 sq m) in the 2017 permission which had been negotiated down from 1027 Sq m during the course of the application. As noted above, the building, as built, is still less than the originally proposed building in 2017 and less than 1000 Sq m - the upper limit of agricultural buildings allowed under the General Permitted Development Order since 2018. The materials used of natural grey fibre cement roof, brown Yorkshire boarding, green painted steel frame, concrete panels and black rainwater goods are considered broadly appropriate for this sensitive location and match those proposed for the original building. There is no doubt that the building is much larger than originally approved but this increase in size does not translate into a much taller building - as built the eaves height is 4.7m and height to ridge 6.24m in comparison to 4.09m and 6m respectively for the originally approved building. The overall height therefore is just 250mm at ridge height taller than the previously approved building. Policy BNE2 seeks to ensure that development will be expected to protect, conserve and enhance heritage assets and their settings. The site abuts the Bretby Conservation Area on the south and west boundaries and the Council has a duty to protect, conserve and enhance this asset and its setting, carefully considering any new development that could affect its setting. In addition, within the Conservation Area but more distant from the site is the former site of Bretby Castle, a Scheduled Ancient Monument. This site is not directly affected by the proposal. The Agents Statement states that the proposed site is the only location considered appropriate for the proposed building as the site is already relatively well screened and well located to the existing farm complex. Much of the rest of the farm is to the north of the site which rises up the valley and over the ridge and would have a greater impact on the setting of the conservation area or be too far away from the established farmstead. Were the building on land adjacent to the existing agricultural buildings closer to the farmhouse it would be located closer to existing residential dwellings and potentially lead to greater noise and disturbance than the proposed location. Whilst this larger building extends further to the east closer to the residential dwellings the applicant now has approval for, and has built a further agricultural building on the site between the application building and the residential dwellings through the prior notification procedure. The Council's Conservation Officer concurs with Heritage Statement that the building as constructed has little more impact on heritage assets than it would have done in its approved form and ultimately the same conclusion in respect of impact on heritage assets should be reached, that the proposal would not harm their significance via their setting.

Based on the above assessment the proposal is therefore considered to comply with Policies BNE1, BNE2, BNE6 and BNE10.

#### Neighbour Amenity

Whilst there are some residential dwellings in relatively close proximity to the agricultural building (approximately 55m), these are now partly obscured by the more recently constructed agricultural and Biomass boiler buildings and not so close for Environmental Health to raise objection subject to conditions relating to a scheme of noise mitigation emanating from the building. Further to discussions with Environmental Health and as the building is now built, a scheme for noise mitigation is no longer relevant. Environmental Health has its own legislation dealing with noise and as such any noise complaints can be dealt with accordingly. A lighting scheme was discharged under 9/2017/0448. visual inspection appears to show limited lighting has been installed both within the building and on the eastern gable. A condition has been added to stop any further installation of lighting. The landscaping condition has not yet been implemented as set out on the original permission. A scheme of landscaping was submitted but this would need to be revised and re-submitted. The landscaping should be along the southern and western boundaries to reinforce existing screening to the neighbours to the south and the conservation area to the west. Subject to the inclusion of these conditions the proposal is considered to comply with SD1.

#### Highway Capacity and Safety

No objections have been received from the County Highway Authority. They previously noted that the proposal is considered to be ancillary to the existing use. It is acknowledged that the access road to Shades Farm is narrow but the proposal is part of an existing use and as such an objection cannot be sustained. As such the proposal is considered to comply with INF2.

#### Other Matters

This application deals solely with the regularisation of the agricultural building. The applicant has also incorrectly implemented the planning permission for the Biomass Boiler building, (DMPA/2020/0448) which is not built wholly in accordance with the approved plans and as such will need to be regularised. The new machinery store appears to have been built in accordance with the most recently approved plans and the applicant stated at a site meeting that the machinery store was completed and the biomass Boiler building added as an extension. A separate retrospective application will be required for the regularisation of this permission and the applicant has been informed of this requirement.

As regards the issue of the true size of the agricultural building allowing further development through the use of the prior notification process, this is more about timing than overall built footprint. The applications for the additional prior notification buildings were made more than two years after the agricultural building was completed albeit without consent.

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** permission subject to the following conditions:

1. The development hereby permitted shall be in accordance with drawing refs. PL-007 Rev A (Site Plan); PL-102 Rev A (Ground Floor Plan); PL-103 Rev A (Roof Plan); PL-201 (Elevations); 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 (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no additional external lighting shall be installed/affixed to the external faces of the building(s).

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

3. Notwithstanding the submitted details within two months of the date of this permission a scheme of landscaping along the southern and western boundaries, which shall include indications of all existing trees and hedgerows on or adjacent to the site and a programme for the landscaping implementation; shall be submitted to and approved in writing by the Local Planning Authority. The landscaping and protection measures shall be carried out as approved within the first planting season. Any trees or plants which, within ten years of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

**Item No.** 1.5

**Ref. No.** [DMPA/2021/0570](#)

**Valid date:** 07/04/2021

**Applicant:** Hobbs

**Agent:** TUK Surveyors Ltd

**Proposal:** **The erection of 2 rear single storey extensions with first floor terrace to part, erection of front porch and changes to material finishes to front elevation at 58 Main Street, Walton On Trent, Swadlincote, DE12 8LZ**

**Ward:** Seales

### **Reason for committee determination**

This application is presented to the Committee at the request of Councillor Wheelton as local concern has been expressed about a particular issue.

### **Site Description**

The proposal affects a 1970's detached 2-storey property within the rural village and conservation area of Walton on Trent Conservation Area.

The application property and its neighbour to the west (60 Main Street) are of the same era and both are of red brick and plain concrete roof tile construction with matching projecting front gables detailed with vertical boarding and stonework.

### **The proposal**

The application seeks planning permission for the erection of 2 rear single storey extensions with first floor terrace to part, the erection of a front porch and changes to the material finishes of the front elevation. The proposed changes to the frontage of the property include replacing the existing tile hanging with cedar (concrete fibre timber-look cladding) weatherboard, the rendering of the brickwork and the addition of a front porch canopy over the front door and ground floor bay, the roof of which would be a tiled lean-to arrangement.

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

No supporting information has been supplied.

### **Relevant planning history**

REP/0869/0029 – Demolish 4 cottages and develop land for 6 dwellings – planning permission granted 20th November 1969.

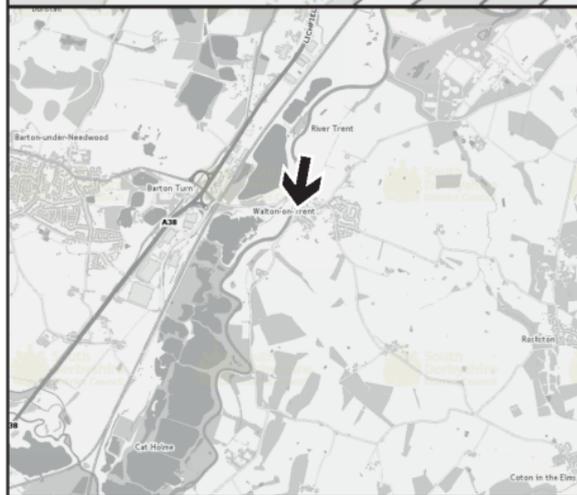
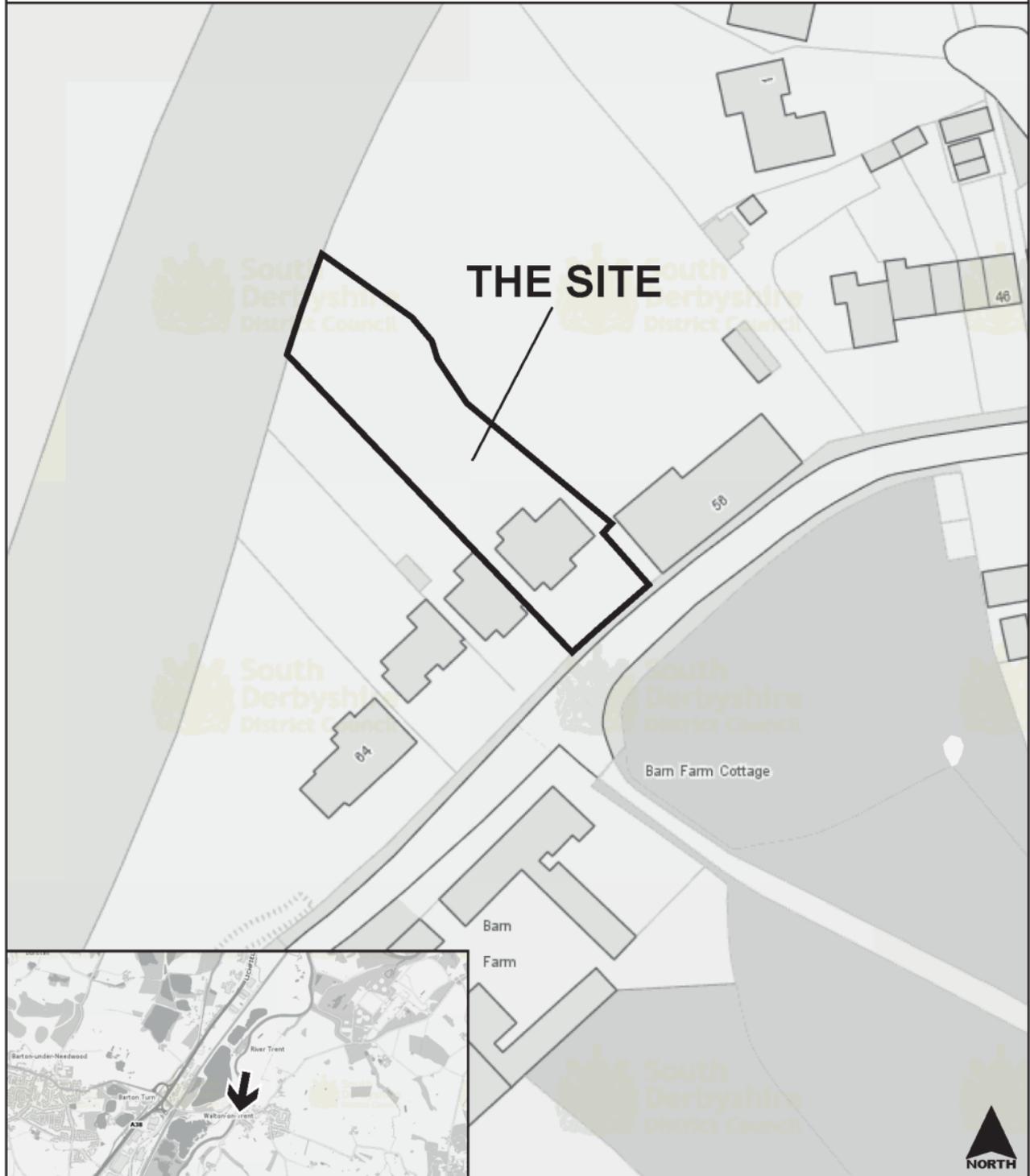
REP/0770/0038 – The erection of 4 detached houses – planning permission granted on 9th March 1971.

9/1280/1155 – The erection of ground floor extensions to the rear and to the south-western flank of the dwelling at 58 Main Street to form a store (rear of attached garage) and utility room (side of property) – planning permission with materials to match condition granted on 30th January 1981.

### **Responses to consultations and publicity**

The Conservation Officer objects to the [original] wording of the description of development which is technically incorrect and therefore misleading. Both of the rear extensions, claimed as constructed in accordance with permitted development rights, represents a 'side extension' on a property within a conservation area and as such would not be considered to be permitted development (PD). The one behind the house rather than the garage would also be more than half the width of the original dwelling

**DMPA/2021/0570 - 58 Main Street, Walton on Trent, Swadlincote DE12 8LZ**



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**South Derbyshire District Council. LA 100019461.2017**

meaning it would not be PD even outside of a conservation area. When a rear extension also projects beyond ANY side elevation – not just the outermost side elevations - it must also be treated as a side extension and the way it is measured includes its entire width, not just any section which projects beyond a side elevation. In this case the larger of the two rear extensions would extend to the side of a smaller rear projection which is shown on the 'as existing' plans and its width would be greater than half the total width of the original house and garage.

The only element of the proposed works to the property's frontage which would give rise to concerns would be the proposed rendering. This would affect a small section of front elevation brickwork to the left hand side and the front garage elevation. In both cases the proposed render would end at the returns to the side elevation necessitating some form of edge beading and a visible transition from render to unrendered areas. Similarly, the side elevation of the front gable projection is shown to be rendered at ground floor (currently stone) but left as exposed stone around the return onto the front elevation, again necessitating some edge beading at the corner. It does seem, and would look, a very odd proposition to arbitrarily end rendered areas in this way. This would be considered more a design issue which would give rise to problematic detailing rather than something which would explicitly harm the special character and appearance of the conservation area.

Following the receipt of amended plans on 28th April 2021, the Conservation Officer would be happy to conclude that the proposal would preserve the special character and appearance of the conservation area.

Walton on Trent Parish Council object to the planning on the principle of work being commenced in a conservation area without prior consent together with the obvious invasion of privacy.

- The development of a balcony on the extension which would lend itself to entertaining offers no privacy to the neighbours. The only option to stop the views directly into the neighbour's bedroom would be to construct a screen of considerable size, but this would affect light and visual amenity.
- This structure would be clearly visible when looking from the bridge across to the conservation area.
- If this balcony was to be rejected, the local authority should insist that the already installed door leading onto the balcony is removed to prevent access.
- The four houses built at the same time of this property share the same type of construction materials; this particular property is one of a pair. The other properties who have undertaken alterations have ensured the material used matched the original. The materials proposed for this development do not and some are not present anywhere else within the conservation area. Even though the front facade of the property is 'of its time' the proposed alteration to the front elevation would create a jarring addition to the street scene within the conservation area and should also be opposed.
- This appears to be a cynical attempt to get the work done before a planning decision can be made because they knew they were unlikely to get it in advance.

There have been 12 letters of objection from 14 individuals covering the following:

- a) The balcony on top of the extension at the rear of the house will mean that when on the balcony, the residents of the house will have a full elevated view of large portions of the objectors garden including the patio immediately outside their property. This will be a clear invasion of privacy and the objectors ask that permission for the balcony on top of the extension is not given.
- b) The balconies would have a direct line of sight view into the objectors garden so they would lose all privacy.
- c) The access door has already been made and a door fitted that would enable the occupants of 58 to have a clear view into the objectors conservatory and patio area if they are standing on the roof of the extension. Whilst it is understood the extension can be built under permitted development, the addition of the balcony and access door should be refused in the interest of fairness and respect for people living in close proximity to No. 58.

- d) The extension is a complete invasion of the objector's privacy. From the balcony area people could see directly into a bedroom and a lounge at the back of the objector's house. The objector would also be able to hear anything they said as they would be in very close proximity (almost level) to the objector's room. The view of the garden from the nearby bridge would also be affected and the front of the house would change the look of the street completely. The objector is very upset and feels totally disrespected that this extension has got this far with absolutely no consultation or discussion. It is a dreadful invasion of privacy.
- e) The balcony is a clear privacy concern with views into all adjacent properties. The glass box option raises similar concerns and will also overshadow adjacent properties. The scale of a glass box at this level is not in keeping with this conservation area or the associated architecture.
- f) An objection is still raised to the revised plans, the objector can still be spied upon and will lose their privacy. It is not appropriate as it is in a conservation area.
- g) The large balcony at the rear of the house will be extremely ugly when seen from neighbouring properties and from the bridge. This will be especially true when it is dark and the light is on in the bedroom/balcony, making it look like a giant lamp. The large balcony will mean that the neighbouring gardens will lose all privacy. The large balcony projects too far into the garden, making the privacy issue worse - if it must be allowed, it should only project half as far as on the plan. The street side of the house is being changed so it no longer fits with any of the neighbouring houses. It looks very much as if the new owners knew this would be unpopular and deliberately tried to make it harder for planning permission to be refused by ensuring much of the work was done before they requested permission. It will be difficult to maintain any kind of conservation area if it becomes known that this approach will be successful.
- h) The revised features in no way stop the residents at 58 Main Street from overlooking the majority of the neighbouring gardens so the previous objection remains unchanged. The roof level of the larger of the 2 rear extensions where there is to be balcony is already above the boundary wall and fence lines. When standing or sitting out on that balcony the residents will be looking over the majority of the neighbouring gardens even with the proposed "privacy screens". These screens will only stop them from being able to look directly into the closest bedroom windows in objector's property and the rear of the house. At least three quarters of the objector's garden is in front of the end of these screens. The land to the rear of 58 Main Street drops down quite steeply towards the river as do the boundary wall and fence lines. This exacerbates the privacy issue posed by this planning application. The larger of the 2 extensions currently under construction is already relatively intrusive in that the top half of the opening for the large bi-fold doors is already visible above the boundary wall from the majority of the objector's garden and external seating area. A balcony on top would have foot level well above the partition wall and an intrusive viewing platform would thus be provided into all the neighbouring gardens. The appearance of 2 large opaque glass and stainless steel screens is not in keeping with the area or any of the adjoining properties. When there are lights on in between these screens or in the bedroom, they will automatically appear to be illuminated like a large light box on top of the extension. The appearance comment also applies with respect to the proposed finishes on the street side of the property.
- i) Objection to the proposed terrace and juliet balconies as they will overlook neighbouring properties. The latest proposal shows raised opaque glazed sides to the terrace balcony but this still will not stop properties from being overlooked and privacy being infringed.
- j) Retrospective applications show a scant regard for the planning process, especially when they are only submitted when reported to the local authority. The objectors strongly disagree that this balcony would fall under permitted development. The balcony gives views directly onto several neighbour's property even giving views into the immediate neighbours bedrooms. The addition of obscured screens will not be a solution to the overlooking issues. It will add to the height and make the structure even more overbearing having detrimental effect on the light enjoyed by the neighbours as well as impacting on the visual amenity of other neighbours. The size of the balcony would lend itself to entertaining which would create noise which would spread to all the riverside properties. One can assume that this balcony would be lit, if not the borrowed light from the bedrooms will essentially create a light box which will be viewed across the conservation area when you enter the village. If this balcony was to be rejected the local authority should insist that the already installed door leading onto the balcony is removed to

prevent future access. The four houses built at the same time as this property share the same pallet of materials; this particular property is one of a pair. The other properties who have undertaken alterations have ensured the material used match the original. The material proposed for this development do not and some are not present anywhere else within the conservation area. Even though the front facade of the property is 'of its time' the proposed alteration to the front elevation would create a jarring addition to the street scene within the conservation area.

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets), Policy INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Walton on Trent Conservation Area Character Statement 2014 (CACS)
- County Highways Authority (CHA) – Standing Advice

The relevant national policy and guidance is:

- zz) National Planning Policy Framework (NPPF)
- aaa) 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 issue(s) central to the determination of this application is/are:

- The impact on the character and appearance of the conservation area;
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area; and
- Parking provision.

### **Planning assessment**

#### The impact on the character and appearance of the conservation area

The Adopted Conservation Area Character Statement for Walton on Trent has not identified the application property as a building that makes a positive contribution to the historic or architectural character of the conservation area. Given this lack of contribution and the fact that the proposed cosmetic alterations to the property's façade would be sympathetic to its existing character, the impact on the special character and appearance of the conservation area would be considered neutral.

The proposed rear extensions and associated external terrace would not be visible from the public realm (Main Street) and as such would not harm the special character and appearance of the conservation area.

The proposal, as amended on 28th April 2021, would preserve the special character and appearance of the conservation area, as is described as a desirable objective within Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The amended proposal would therefore conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP2 in that the significance of the heritage asset (conservation area) would not be harmed.

In response to public objections/comments regarding the potential views of the proposed development

from the Station Road bailey bridge to the north of the application site, these views would be partial, being partly screened by the existing tree planting which dominates the banks of the River Trent along this stretch and they would also be at a distance of some 150m. The fact that the proposed extensions would be visible in glimpses, as are the existing host building and the other neighbouring properties along this stretch, from a bridge that is soon to become redundant and which is outside the conservation area by a substantial distance, would not amount to a harmful impact upon the special architectural and historic character and appearance of the conservation area.

#### The impact on the living conditions of the adjoining properties and the general character and appearance of the area

The proposed changes to the front elevation of the host property would not change its character and appearance to the extent that the property could not still be read as forming part of a 1970's development that includes its matching neighbour at 60 Main Street. The overall form of the original host, as viewed from the public realm (Main Street), would not be significantly altered and the external appearance of the existing forwarding facing gable would remain essentially the same, albeit in slightly differing materials for the horizontal boarding but with the retention of the ground floor stone details which are also reflected at No.60. It should be noted that the plot for No. 58 is wider than that of its matching neighbour and the host property has been extended to both its side elevations such that its character is slightly different to that of its neighbour. Despite these additions the character of the original host is still clearly contemporary with its neighbour and the proposed cosmetic alterations would not adversely alter this relationship nor would they adversely alter the character of the existing street scene or general character of the area.

The proposed front porch would be a non-habitable open-sided canopy to offer protection against the elements and the proposed roof would have the same pitch as that of the existing single storey west side extension, which is slightly shallower than the roof of the main host and the attached garage. As such it would be considered a sympathetic addition that would have a negligible impact on the character of the host and street scene and would have no impact on the amenities of the surrounding neighbours in line with the requirements of the Council's SPD (Appendix A - Extending your Home).

The proposed rear extensions would be single storey and would present blank elevations towards the neighbours to either side (56/56A and 60 Main Street) where there is adequate screening to preserve the existing ground floor privacy levels in line with the requirements of the Council's SPD.

Most houses overlook neighbouring rear gardens to some extent and the removal of the proposed first floor double doors and Juliette balcony to bedroom 3 in the existing house, to which there have been objections in relation to overlooking, could possibly be negotiated. Having said that, although verandas, balconies and raised platforms are not permitted development (PD) and would normally require planning permission, the only exceptions to this would be for Juliette balconies where no platform or external access would be created, which is the case here. As such, it would be difficult to sustain an argument for its removal if the works do not require planning permission in the first instance.

The amended plans of 28th April 2021 show that the glazed screens to the proposed external terrace would be 1.8m tall and opaque glazed (a condition can be imposed so the most obscure type of glazing can be agreed) and this would be sufficient to prevent side views towards the adjoining neighbour's gardens. The proposed screens would also prevent any overlooking from the external terrace into the windows of the adjacent properties and would help to channel the views from the new terrace down the applicant's own rear amenity space. It should be noted that the neighbours external seating area, mentioned as being overlooked in the publicity comments above, is some 45m away from the rear of the application property so it could not be argued that there would be significant overlooking of this external space due to the existing separation distance and the existing mature trees along the side boundary between No's 58 and 56/56a which aid in screening views in both directions already, albeit more in the summer months. As previously mentioned, most houses overlook neighbour's gardens to some extent and the SPD guidelines seek to protect the areas closest to the main windows of adjacent neighbours where occupants most value their privacy. In this case, the sector of view from the northwest facing end of the proposed external terrace would not overlook any amenity space that is immediately adjacent to the rear elevations of the neighbouring properties and as such the amended

proposal would conform to SPD.

The effect of extensions on neighbours often causes the most concern and one person's idea of what is acceptable is not necessarily the same as another's hence the Council's SPD guidelines have been written in such a way to be fair to both sides. The main issues arising from publicity concern overlooking (or the loss of privacy) and overshadowing (or overbearing). The proposed rear extensions would be single storey and although the proposed screens around the new external terrace would raise the height of the structure by another 1.8m, this could not be considered to be tantamount to a 2-storey structure that would require the proposed structure to not breach the minimum distances, as set out in the SPG, along a 45 degree line drawn from the centre of the nearest ground floor 'primary' windows of the neighbouring properties. Even if a proposed single storey extension with a roof terrace were considered together as constituting a 2-storey structure, it would not breach these distances in any case and would therefore conform to SPD.

In view of the above assessment, the Local Planning Authority would not be able to sustain an argument for refusal based on the overlooking and overshadowing issues raised via publicity. The amended 28/04/2021 proposal would conform to the Council's SPD and with the requirements of Policy BNE1 of the LP1 and Policy H27 of the LP2 in that the proposed development would not adversely affect the character of the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

#### Parking provision

The proposal would provide an additional bedroom at ground floor level and would increase the total number of bedrooms from 4 to 5 within the property. The existing attached garage has a width of 4.95m and a depth of 7.39m and the proposed extension of just over 2m at the rear of the garage and the internal works to split the space to accommodate the new bedroom would reduce the depth of the garage to 5.2m. Although this resultant depth would be below the recommended minimum of 6m required by the County Highways Standing Advice, there is sufficient space within the existing hardstanding area to the front of the property to accommodate the 3 car spaces that are recommended by the Council's SPD for a property of 4 bedrooms or more. There would feasibly be space for more than 3 cars on the existing frontage and the new garage depth would accommodate an 'average car' estimated as being 4.2m to 4.9m in length. As such the proposal, as amended, would be considered to not conflict with the requirements of the Council's SPD or with the objectives of Policy INF2 of the LP1.

The proposal, as amended on 28/04/2021, would conform to Policy SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and futures occupiers within and around the proposed development.

The proposal, as amended on 28/04/2021, would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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** permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the submitted application form and plans (unless superseded), received on 6th April 021 and made valid on 7th April 2021 and the amended plan (drawing no. 2101-G01-A-P03 Revision B) received on 28th

April 2021; 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.

2. All external materials (bricks and roof tiles) used in the development shall match those used in the existing building 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 the surrounding area.

3. Prior to their incorporation in to the external terrace hereby approved, details of the screen panels and their fixings and a sample of the obscure glazing shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 of the external screen panels, including horizontal and vertical sections and precise construction. The development shall thereafter be constructed using the approved drawings and materials.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the balcony screens hereby approved enclosing the sides of the external terrace area, as depicted on drawing no. 2101-G01-A-P03 Revision B, shall be glazed in obscure glass and non-opening and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

Informatives:

**Item No.** 1.6

**Ref. No.** [DMPA/2020/0943](#)

**Valid date:** 08/10/2020

**Applicant:** Lacey

**Proposal:** **Change of use of the site to a mixed use wedding ceremony/function venue with overnight tourism and leisure. The erection of new single storey raised buildings, the conversion of existing buildings to provide accommodation and facilities, the creation of a camping area with car parking, access and associated works at 1 Tower Farm, Swarkestone Road, Weston On Trent, Derby, DE72 2BU**

**Ward:** Aston

### **Reason for committee determination**

The application has been called to Planning Committee at the discretion of the Head of Planning and Strategic Housing.

### **Site Description**

The site is located outside of the village of Weston on Trent and is fairly flat with a cluster of sprawled outbuildings and positioned adjacent to residential properties; Tower Farm and number 2 Tower Farm with more residential properties located to the east and fishing ponds to the north. The site is characterised by dense tree planting to the front and east of the site, with lesser tree coverage to the west and north. There is a designated public footpath (PROW 5) which is located to the west of the site.

### **The proposal**

Consent is sought to change the use of the site to create a tourist facility that would provide a year round wedding venue, venue for wakes, social gatherings and corporate events. The application also seeks consent for the erection of two new buildings, the conversion of an existing buildings on the site and the creation of a camping area to support the proposed use.

#### *Main venue building – new building*

A single storey building and elevated on stilts with a mono-pitched roof. The building is 6.11m in height at the highest point and 4.36m in height at the lowest point. The building will house the main functions and wedding parties.

#### *Glass House – new building*

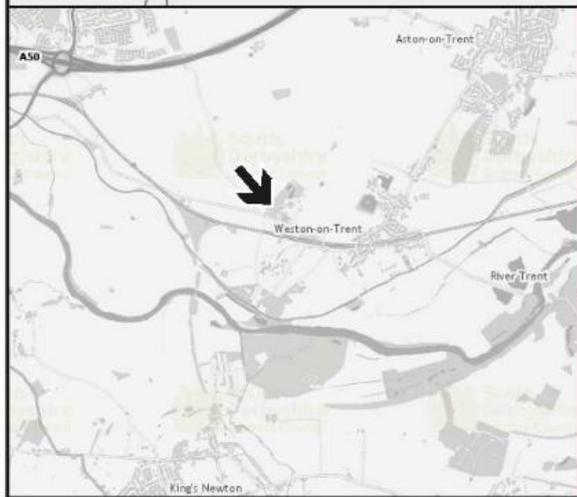
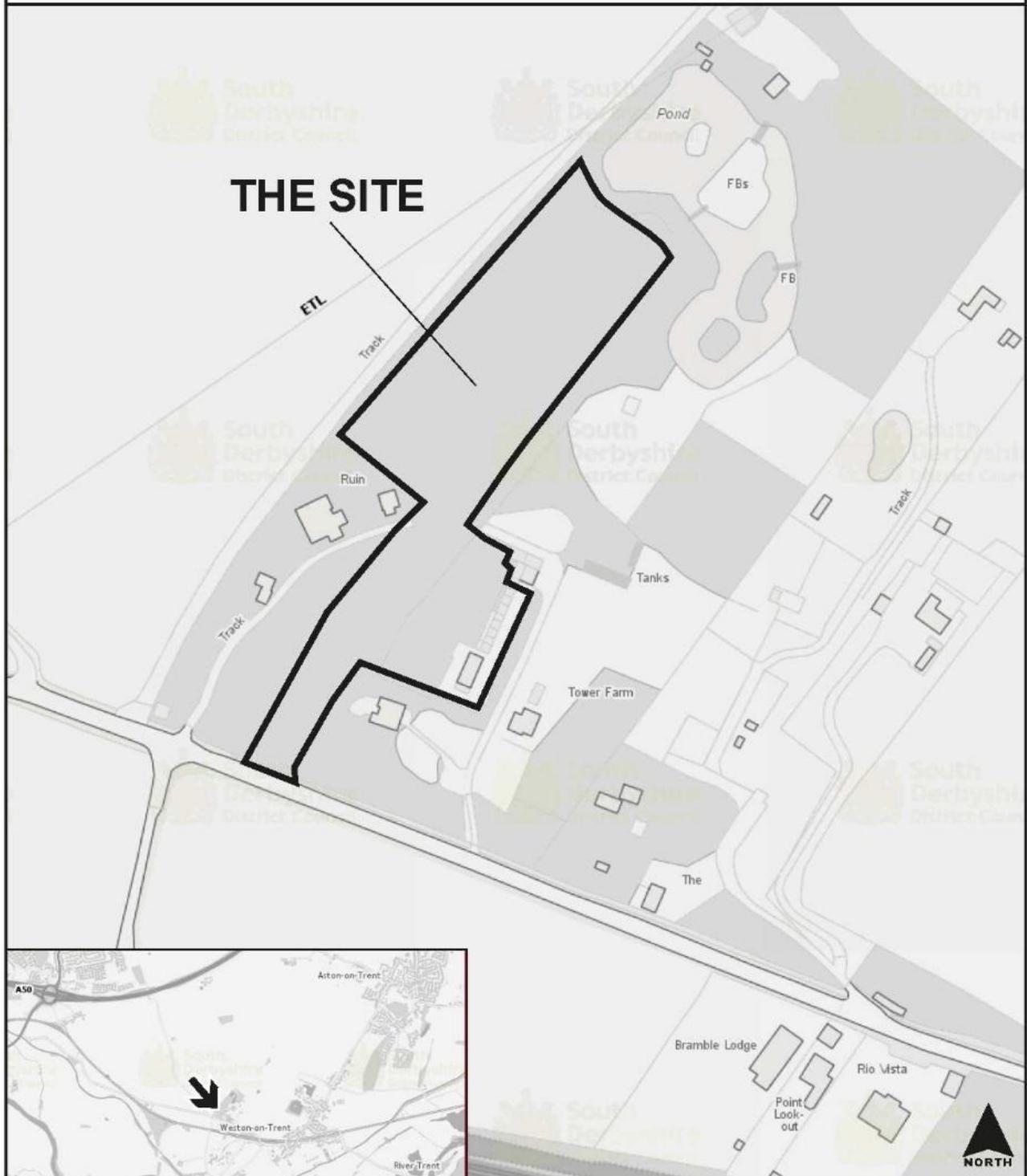
The proposed glass house would be 4.34m in height with an area of 48.26sqm. The building would be single storey and would be used for wedding ceremonies.

#### *Stable block and Bridal Building– conversion*

There is an existing outbuilding at the site referred to as the “stable block” that will be converted to provide overnight accommodation and a further building will be converted to create bridal accommodation. From the submitted plans, there would be a canopy and a single storey extension added to the existing stable block building, with windows and doors inserted into both buildings. The proposed floor plans show alterations to the internal wall systems and the incorporation of structural elements to facilitate the conversion on both buildings. Given the extent of excessive alterations that would be required in order to convert the existing buildings, these buildings would be considered as new structures on this basis.

A camping area will be created to the east of the site for people to stay overnight.

**DMPA/2020/0943 - 1 Tower Farm, Swarkestone Road, Weston on Trent, Derby DE72 2BU**



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## **Applicant's supporting information**

### Planning Statement

The application proposes the creation of an events venue which would contribute positively towards the rural economy, and which would meet the needs of the local community as well as a general unmet need for this type of facility in the wider area. The proposals would serve the social and economic needs of villages within their rural hinterland, by providing employment opportunities to meet the needs of their growing populations. They would also provide a meeting space for local groups. The proposals have been extensively researched by the applicants and are supported by a robust business plan. The rural location and natural surroundings are key to the business model and the proposed development would simply not be possible in a built-up area. A countryside location is therefore essential in this instance.

### Business Plan

The vision; considering how biodiversity can be enhanced at the site and whilst there will be some managed areas there will also be more wilder natural areas too, planning to use bioswales to manage drainage across the site. We have plans for a cutting flower garden and have another 200 eucalyptus trees being delivered summer 2020. A large kitchen garden is planned in front of the residential house that will provide local organic food for the events. The site looks great in the spring and summer months without the need for any additional planting and therefore it will be the priority to plant for the winter months, =to promote winter weddings and all year round tourism.

Proposed services include: weddings, weekend weddings, wakes, accommodation, overnight well being retreats, corporate away times with overnight and other business strands Workshops, supper clubs, stand alone hiring of the accommodation options. The bridal suite would make a luxury unique winter stay and the site could be used for wedding fairs. This is a starting point and would need to be viewed with the timeframe for building works.

Details will continue to be explored as to how the business will work with a chef and catering team, (either employing own team, or inviting a chef to run their own business from here and and hiring out the space and taking a percentage per head cost ) as well as the venue and site having their own unique fresh style we would like the food to have its own style as well and will seek to work with a chef, who will use local organic seasonal produce where possible and perhaps introduce immersive outdoor dining experiences.

How the business will work with an experienced events manager, if we will employ a person or if they will work in a freelance way as well the employment of an 'on the day wedding planner'.

A market research event was held at the Village Hall and was attended by 30 people. Those that attended completed questionnaires and the key findings were:

- There is need and a demand for this type of venue space in this location, there is nothing like our vision around this area.
- overall enthusiastic and positive response to the business idea and concept.
- most people were impressed with and kudos placed on the green credentials and environmental/sustainability aspects.
- People felt that we would be able to offer employment opportunities, and people who lived in the village were positive about this.
- Positive response to the location of the main venue on the site.
- Some concerns raised about the entrance (Please refer to appendix 22, discussion with Sue Highly, highways dept.)
- Willingness for the venue to be used for a variety of events and for it to be a part of the community.
- After reading the results we felt motivated to review our accommodation on offer and reduce the room numbers so that we are able to offer more ensuite rooms.

To concentrate on weddings and the takings from the bar alone, it would be calculated that each year, the business would need to host 12 weddings and in 5 years we would be able to recoup the initial investment. Once the venue is up and running we are able to start the repurposing of the existing

buildings to create the accommodation side of the business, we would hope to have this available for year 2 onwards, and we have calculated that we would need to host 12 weddings (again over a 5 year period) a year including accommodation, and we would be able to recoup the additional investment used to build the accommodation. We are confident following our desk and field research that the price of our wedding offer will be achievable. To review our venue comparisons, we have applied a market pricing, value pricing and a cost-plus pricing strategy.

### Environmental Noise Report

It is recommended that the client formulate a Noise Management Plan (NMP) to include responsibilities of the management of noise produced from the proposed venue in order to maintain a low impact on neighbouring dwellings.

A Noise Management Plan (NMP) may include:

- I. Organisational responsibility for noise control
- II. Maintaining and reviewing operational hours
- III. Music noise level controls including music noise limiter settings and any external noise limits
- IV. Persons responsible for review of NMP
- V. Details of community liaison

As part of controlling noise levels due to activities relating to the event noise at the venue, any external seating area and smoking activity should be contained to the north side of the venue in order to create a natural noise barrier provided by the structure of the venue building.

A noise limiter should be installed in the venue so that sound levels are not raised enough to exceed background levels at the nearest noise sensitive dwellings. As the calculations have been carried out at a typical disco/event of 94dB(A). As a guide we have tried to ensure that noise levels from the events do not breach the measured background levels for minimal noise impact, this doesn't not ensure inaudibility however and is not achieved in every instance.

To allow for margin of error of the calculations, we would recommend the noise limiter is set with a live music level once installed, to set a more precise limit. As open windows and doors result in noise levels that exceed the background levels by up to 37dB, an alternative method of ventilation should be used. We would suggest mechanical fixed plant located on the north side of the building with noise levels not exceeding 10dB below the lowest measured background levels at the nearest noise sensitive receptors.

Due to the possibility of fixed plant being required soundtesting.co.uk suggest that a noise impact assessment of any proposed mechanical fixed plant should be undertaken in order to ensure a low noise impact. Locating the plant on the north side of the proposed venue would provide attenuation as in the case of smoking and areas. It is recommended to install signs in the car park requesting users to maintain a level of 'quietness' when using the car park. The sign may request users not to use car horns and keep voice levels to a minimum.

In the opinion of the consultant, taking the numerical guidance information into consideration, there will be a low noise impact resulting from the wedding venue operations including disco music, patron noise and related vehicle noise when taking the recommendations into account.

### Ecology Statement

On the evidence above, it is the conclusion of this report and the considered opinion of Wildlife Consultants Limited, the proposed redevelopment of the site will have no adverse effect on the favourable conservation status of any bat or protected species including barn owls. The presence of bats within the immediate area is noted and it is considered if these bats do use the site for any purpose and there will be no loss of potential roosting sites, foraging sites or foraging corridors as a result of the proposed redevelopment. The Biodiversity Enhancement as per this report is implemented to provide Biodiversity Enhancement and no licences would be required from Natural England

(Licensing Authority). Incorporation of Bat Bricks, Bird Boxes and standard tree planting should be incorporated.

### **Relevant planning history**

9/2016/0842 - The demolition of the existing single storey dwelling and outbuildings and the construction of a new two storey dwelling with associated external works - Approved with conditions - 24/11/2016

9/2018/0493 - The erection of a replacement dwelling - Approved with conditions

9/2019/0358 - The erection of a replacement dwelling with detached garage and associated works at - Approved with conditions - 17/07/2019

### **Responses to consultations and publicity**

County Highway Authority - The amended plans now show the amendments which includes the access relocated to the east so that visibility splays for the vehicular access off Swarkestone Road are contained within the curtilage of the boundary of the applicant's ownership as outlined in red boundary as subject of the application. In the applicant's statement they refer to promoting sustainable modes of transport in terms of encouraging car sharing, use of mini-buses/coaches and also staggering arrival/departure times of the venues in order to reduce single-occupancy car use. In order for this to be actioned, it would be necessary for a Travel Plan to be submitted by way of a condition which will ensure these measures as well as for the proposed works to be carried out in accordance with the access and parking arrangements as shown on the submitted plans.

Environmental Health Officer – Initially raised concerns regarding the potential for noise pollution and the impact on the amenity of neighbouring dwellings, an amended floor plan has been submitted which shows a noise breakout area in the lobby of the main building. However, subject to the inclusion of conditions to secure an acoustic barrier down the western side of the site, as well as the submission of a Noise Management Plan, which shall include; sound limiting devices, a scheme of mechanical ventilation and details of a Warden to be present to manage events and camping at all times, there would be no objections to the application.

Derbyshire Wildlife Trust – The submitted Ecological Impact Assessment has been assessed. The assessment is based upon the findings of a daytime building inspection and walkover survey of the site carried out on 7th February 2020. On the basis of the submitted information there are unlikely to be any ecological impacts arising from the proposed development and the biodiversity enhancement measures outlined should be secured by way of a condition.

Development Control Archaeologist - The site is within the former Weston Camp (Camp 634), Derbyshire HER MDR14463, a World War 2 (WW2) prisoner of war camp extending both north and south of Swarkestone Road and thought to have been in use until 1948. The information that has been supplied in relation to previous planning applications on the site suggests that no original buildings survive north of the road (on the current application site) but that there are some WW2 buildings surviving south of the road and there are no objections to the proposal.

Severn Trent – No objections subject to the inclusion of conditions for drainage plans to be submitted prior to works commencing on site.

There have been six letters/emails of objection received and letter of support received raising the following points:

- a) Unhappy about the many different usages stated in the application e.g. wedding venue and campsite. There is already the Ukrainian Centre used for camping and caravanning, expanding this in the small residential village of Weston-on-Tent is entirely inappropriate.
- b) Concerned about late night noise levels and significant increase in traffic.

- c) Large numbers of people will inevitably bring a huge amount of traffic into the area, causing an already busy junction with the A514 to be vastly increased.
- d) The plan does state the traffic entrance will be widened but if there is a potential for up to 70 cars arriving traffic noise as well as queues on the Swarkestone Road will result.
- e) Swarkestone Road at the site of Tower farm has a 60 mph speed restriction and cars drive at great speed towards the village of Weston on Trent, a further distance of approximately 300 yards. This may result in more accidents on this road. A yellow no parking on the road/ roadside would be necessary. It is naive to think the traffic will avoid the villages of Weston on Trent and Aston on Trent which are already congested especially at the Aston on Trent post office area.
- f) The building is supposed to be sound proofed against noise levels but it is likely, especially in summer months, that guests will want to be outside with doors open with loud music and large numbers of people making considerable noise. The proposed time for this venue's operations is 12.00 midday to 01.00 hours. The applicants have submitted a report which states they must take mitigation against noise levels in this situation.
- g) The noise engineer states that this doesn't ensure inaudibility and is not achieved in every instance. The noise assessments have been performed taking into consideration the two closest dwellings currently being erected which we believe belong to applicants. There are no assessments of the noise affecting the other two dwellings adjoining Tower farm or the other three properties on the other side of the road.
- h) The proposed curfew time of 01.00 hours is excessive and is likely to go beyond this time as cars and people leave the premises. Local residents being next to general social function related/traffic noise until the early hours of the morning across numerous whole weekends of the year is concerning.
- i) There is no mention of how often the use of the wedding venue/ function room is intended for use. The traffic and noise levels up to 7 days a week will inevitably cause disturbance to the closest nearby residences.
- j) The plan talks of increasing opportunities for local businesses and hotels but these are not available in the immediate local villages.
- k) There is no detail of the type of camping proposed and how many facilities are contained within the proposed campground. The campground appears to be an addition without detail and will be an unnecessary facility for weddings which it is intended will have most use of the venue.
- l) The noise survey takes no account of whether the doors are open or not and that social functions will only take place within the building with doors and windows closed. The building appears to have balconies outside so in summer these will be full of people.
- m) Given the scenic country location of the venue and the outdoor space being provided it is highly likely that wedding guests would wish to enjoy the outdoor space that has been designed into the building concept and noise from inside the venue - disco music/social noise - would be clearly heard in the surrounding area.
- n) Implausible in suggesting that noise output is expected to be lower when music is being played than when it is not.
- o) Concerned about the adequacy of the parking provision and feel that overspill parking onto Swarkestone Road is likely to result from inadequate parking provision being made at the site; this raises road safety concerns.
- p) Very concerned about the noise levels and the security.
- q) What leisure facilities are they actually going to have there?
- r) This will encourage extra traffic and noise to the area. There is noise from the train line, airport and the race track at Donnington. The road is very busy now, if permission is granted it will cause more traffic congestion for village residents.
- s) This would be a lovely addition to the village and fix up a big space that is currently wasted.

Weston on Trent Parish Council - The planning statement says that 'the venue will allow events to be held in an outdoor setting year-round' However, the Environmental Noise Statement only covers indoor events but does state that the sound level from a Music Bar/ Nightclub can be as high as 101dBA. The noise assessment also covers both evening and night time noise, implying that events could go on into the small hours of the morning. Given that outdoor events could be held on most weekends over the summer months, as well as weekdays and other times of the year, there is a potential for serious noise

pollution in Weston Village which is only 0.6km away. The planning statement and supporting documents do not cover light pollution which could be significant from this type of venue, this needs to be addressed in the planning application.

The site is going to have parking space for "off-street parking provision for 50 vehicles with overflow facilities for an additional 20. Furthermore, sufficient space has been provided for a coach to turn around on site so that all vehicles can enter and leave the site in forward gear. Disabled parking provision will be available next to the main venue, together with cycle racks promoting more sustainable travel modes. A designated pick up/drop off point for taxis off the main road has also been incorporated within the proposals" This represents potentially significant vehicle movements with, for a large event, anything up to 70 cars, coaches, taxis and bikes arriving on site on roads that are already under pressure is probably not sustainable.

The development would bring all the traffic into and out of the village via Cuttlebridge which is not a suitable junction. From Trent Valley Crematorium there is no option for vehicles from here to come through both Aston & Weston villages via the Post Office junction in Aston unless they take them the long way round via the A50 and Cuttlebridge.

Given the nature of the site, it is likely that the majority of vehicles leaving site will be doing so at the end of an evening's entertainment/function which may be around or after 1am Increased vehicle noise will be inevitable from this especially if they chose to come through Weston and Aston, which is equally as likely as them turning towards Cuttlebridge. Also, this increases the risk of people driving whilst intoxicated through the village on a night, with the consequent increased risk of accidents. There are very few nearby guesthouses and hotels which then suggests the people will need to drive to the venue.

However, there are currently The Coopers, The Malt, The White Hart, the Methodist Church, the village halls in both Aston & Weston as well as the Recreation Centre in Aston which currently provide places for social gatherings.

The access is 6m wide but with large mature hedges on either side which will limit sightlines along the section of road where cars are starting to accelerate to the national speed limit having just left the Weston 30mph zone. Although this road isn't massively busy, there is increased risk of collision with cars on the road and ever increasing number of cyclists who use the road from Cuttlebridge through Weston.

The Environmental Noise Report mentions concerts and states the noise limits for a facility used less than 30 times a year, then states it is going to be used more than that figure. An external wedding site will inevitably have music associated with it, the Noise Assessment only considers this with the windows and doors closed.

The Parish Council therefore objects to the proposal on the grounds of its lack of sustainable transport options, poor access visuals, light pollution, potential sound pollution from venue and vehicles and adverse effects on roads; especially the Post Office junction in Aston and Cuttlebridge. The development would be close to the listed St Mary's church and Coopers and the Council feels that the design of the buildings will adversely affect the open and rural aspect of this part of the village. The large scale of this development is unsuitable for Weston Parish.

### **Relevant policy, guidance and/or legislation**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF10 (Tourism Development).

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and 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:

- Design Guide Supplementary Planning Document (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 issue(s) central to the determination of this application is/are:

- Principle of Development;
- Impact on Amenity;
- Visual Impact;
- Highway Safety; and
- Trees

## Planning assessment

### Principle of Development

The site is located outside of a designated settlement boundary and would constitute development within the open countryside. There is scope within policies INF10 and BNE5 of the Local Plan for the creation of tourism based facilities within the open countryside provided that they are supported by a sound business case, that the proposed operational development would be of a temporary or reversible nature, or sustainable well designed new buildings and that the proposed works would not give rise to undue impacts on the local amenity by way of noise or disturbances.

In addition, policy E7 of the Local Plan supports development that seeks to diversify the range of sustainable rural employment activities which would support the social and economic needs of the rural community. Both policies E7 and INF10 seek to do this through the re-use and conversion of existing buildings in order to retain disused agricultural buildings and their heritage, by using temporary structures that are of a reversible nature to allow business to operate in their infancy and through the erection of sustainable, well designed new buildings. In all cases, the change of use of land outside of a designated settlement boundary to a tourism use or a form of rural diversification would need to be substantiated by a robust business plan that demonstrates the financial sustainability of the business and its longevity, in order to justify and underpin the proposed use or operational development in a rural area.

When assessing the Local Plans part 1 and 2 as a whole, there is a continuous thread that runs through both plans that the erection of new buildings in the open countryside is not broadly suitable and that development should be directed to the most sustainable locations throughout the district. However, policies E7 and INF10 of the Local Plan recognise, and do account for new development to support a rural business or rural tourism accommodation. However, consistent with the wider plan policies, in these circumstances, both policies E7 and INF10 specify the requirement for a robust business plan to underpin the need for the new development and how this would meet and support the social and economic needs of the rural community.

In this instance, the proposed business would need to underpin the proposed change of use of the land and the need for the proposed new buildings and the submitted Business Plan would need to demonstrate sufficient longevity to the business - if the rural based business were to fail, this would result in a vacant, isolated buildings within the countryside. In these circumstances, the onus is on the

applicant to demonstrate that the business would be viable and that the new building would be essential to the continued success of the business. This is a finely balanced issue that rests on demonstrating the success of the existing rural business/tourist accommodation and that it will remain so in order to support the long term use of the proposed new, permanent buildings.

### *Business Case and Justification*

A thorough and well executed Business Plan has been provided as part of the application demonstrating a broad demand for weddings to be held in countryside locations, with projections that the business would hold a minimum of 12 weddings a year at the site, covering the costs of the investments over 5 years. However, the wedding business is not currently in operation or been started up and the submitted Business Plan is based on projections, therefore, the proposed building works would not be funded by the income of the business, but outside investment. The projections within the Business Plan state that the costs of the building works could be re-couped within a five year period subject to a minimum of 12 weddings taking place a year. This sets a significant expectation of the business from the beginning in that for the first five years, the business will be covering the costs of the start up and the proposed building works.

There are two aspects to this application, in terms of the change of use of the site for weddings to be held and for the erection of the new buildings, or operational development. The change of use of the site to a rural tourism and wedding venue could be considered suitable in principle as, whilst the submitted Business Case cannot demonstrate income from the business or growth of the business over a period of time, it does show a strong intention to start up a business and if temporary buildings of a reversible nature were sought, this would provide a good opportunity for the business to start up and provide an opportunity to demonstrate a successful start up, where the site could be returned to its previous use and condition if the projections of the business were not reached.

However, the proposed application seeks consent for the erection of two new buildings as part of the change of use and the substantial alteration of two other buildings, constituting new works and the application must be assessed in its entirety. The application seeks consent for two new buildings to the rear of the site, of which the combined floor area of both proposed buildings would be in excess of 665sqm. This is a significant amount of new, permanent, operational development and would be located within the open countryside. The business that would underpin the need for both of the new buildings has not been started up to date and the need for both new buildings has been argued through the potential future projections of the proposed business as opposed to demonstrated growth and economic sustainability.

From the information that has been submitted as part of the application, this has highlighted that there are a number of existing businesses in the locality that offer wedding packages with various outdoor wedding facilities; with seven outdoor venues within a 20 mile radius of the site and a further 10 indoor venues within 20 miles of the site. However, the existing outdoor sites in the locality predominantly rely on temporary buildings such as tipi's and marquees as opposed to new, permanent buildings. Whilst the tipi's and marquees were set up permanently, they are of a reversible, temporary construction that means that the site could always be returned to its original condition. This has allowed the businesses to start up and build a positive reputation and are able to host weddings with very little start-up costs, owing to the erection of temporary buildings being a fraction of the cost of permanent buildings and build the business up from there.

The creation of two new, sizable buildings of a permanent nature would mean that the site could not be returned to its previous condition if the business were not successful and would create two new buildings that could become vacant and require alternative uses. Given the infancy of the business, the lack of demonstrable growth and financial sustainability of the business it is not considered that the submitted Business Case is robust enough or provides the certainty to warrant the erection of two new buildings within the countryside, as well as the extensive alteration of two existing buildings and would fail to meet the tests of policy E7 and INF10. This would fail to accord with the requirements of policies E7, INF10 and BNE5 of the Local Plan.

The submitted Business Plan states that the incorporation of temporary structures to start up the business would not be feasible as they intend to use the site for weddings all year round with tipi's and marquees not being feasible in the winter months. The need for permanent buildings is underpinned in the submitted Business Plan by needing to host weddings during the winter months, where it could be cold with guests preferring to stay inside the building where it is warmer. Hence why a lot of outdoor, rural wedding venues only operate in the summer months as there is little demand for outdoor weddings in the winter months. Whilst the Business Plan states that there will be winter planting to create a suitable outdoor space in the winter months, the reliance on the need for a permanent building to keep the weddings going during winter months demonstrates that the rural location would not be suitable to host weddings all year round and would be reliant on indoor space to allow weddings to continue during these months. Therefore, unlike during summer months, the winter weddings that would take place would not be dependant on an outdoor, rural location, of which, the submitted Business Plan specifies that are currently ten indoor wedding venues within a 10 mile radius of the site. The all year round facility would therefore, not be essential to a rural based activity or constitute development that is unavoidable outside of a settlement boundary and would fail to accord with policies E7, INF10 and BNE5 of the Local Plan.

By operating all year round, the Business Plan states that the use of temporary structures would need to be removed and replaced at a later stage with a permanent building. This would mean that the business would need to close during the construction period which they fear would damage the business. However, it would be possible to phase future construction works, subject to their suitability and as businesses become more established, upkeep works and upgrading would need to be factored into the lifetime of the business and would be commonplace.

Policy E7 stipulates that rural diversification projects should seek to support the social and economic needs of the rural community by way of job creation or strengthening local facilities. The submitted Planning Statement specifies that the proposed development would create jobs such as bar work, on day wedding planners, horticulturalists and caterers and would try to encourage customers to use local pubs in the nearby village. However, there have been no details submitted on the numbers of jobs that would be created or whether this would bring people from outside the local area as opposed to recruiting these positions from nearby settlements. It is therefore, not possible to quantify if any jobs would be created as part of the proposed development and it is therefore, not clear how the proposed development could seek to support the social and economic needs of local people as defined within policy E7 of the Local Plan.

#### Impact on Amenity

Concerns have been raised by local residents with regard to the impact of noise and disturbance from the proposed development and the impacts of late night music as well as noise from the outdoor camping site. The application has been assessed as a wedding venue with ancillary overnight accommodation as well as for hosting corporate events and hosting events for local people.

The Environmental Health Officer initially raised concerns relating to the travel of noise from the facility in terms of overnight camping and music from the building i.e. despite this being a permanent building, the noise could still travel if windows and doors are left open. It is noted that the nearest residential dwellings that abut the site are within the ownership of the applicant but that the nearest, separate residential dwellings are between 80-100m away from the site.

However, subject to the inclusion of conditions to create an acoustic barrier around the proposed campsite as well as a Noise Management Plan which would specify details of wardens to manage events and camping at all times, as well as numbers of tents and sound limiting devices to be installed at all times, and these details being provided prior to the first use of the site, there have been no objections raised by the Councils Environmental Health Officer and depending on suitable details being submitted, would accord with the principles of policy SD1 of the Local Plan.

#### Visual Impact

Policies BNE1 and BNE5 of the Local Plan stipulate that development shall respond positively to the

local character and vernacular of the area and where the principle of development is suitable, shall not have an undue impact on landscape character.

The application site is located on very flat terrain with very dense tree planting to the east of the site which is covered by a Tree Preservation Order (TPO504). This provides dense tree coverage to the east of the site which significantly restricts views into the site from an easterly direction. The site benefits from tree planting around the perimeter of the site with the fishing lakes located to the rear. Unlike the tree coverage to the east of the site, the remaining perimeter trees are not protected by a TPO and whilst some screening is afforded in summer months from the west and north of the site, this is not protected and the western and northern edge of the site could become open in the future, affording views of the proposed development. This is extenuated by the location of a public footpath (PROW 5) which runs in a north westerly to south easterly position to the north and west of the site and affords public views of the north and west of the site.

The proposed development seeks consent for the erection of two buildings and the conversion of two existing buildings through extensive alterations, as well as alterations to the layout of the site to accommodate the camping area and parking. The two new buildings equate to in excess of 665sqm of new floor space which would be overly large and disproportionate in the absence of an established business need for buildings of this size. The proposed development would fail to accord with policies BNE1, E7, INF10 and BNE5 of the Local Plan and would represent unsuitable development in the open countryside in the absence of an established business need. As outlined above, it is acknowledged that the site would not be highly visible from the easterly direction owing to the protection of the existing tree cover but the proposed buildings would be visible from the western and northern views into the site, of which landscaping conditions could not overcome this. The proposed buildings would have a permanent presence at the site and would compromise the current open and rural surroundings of the site and would fail to accord with policies BNE1, BNE4 and BNE5 of the Local Plan.

#### Highways Safety

Concerns have been raised by local residents with regard to numbers of cars that would be using the access and coming out onto Swarkestone Road, which has a national speed limit. Amended plans have been received which have moved the access so that the proposed visibility splays would be entirely contained within the applicant's ownership and would be within their control in order to accommodate 2.4m x 203m visibility splay and the required pedestrian visibility splay. On the basis of this, the proposed development could accommodate a safe and suitable access and would accord with the principles of policy INF2.

The submitted Planning Statement shows that the development would be operated in order to reduce travel and ensure sustainable modes of transport are made to and from the site using car shares and minibuses to reduce the number of car journeys and comings and goings to the site. This would help to alleviate noise and disturbance to local residents but as noted by the County Highway Authority, it would be necessary to ensure that a condition would be attached to provide a Travel Plan; to outline the methods for reducing car usage and as a workable document to ensure compliance with these methods.

By providing an access with the correct visibility splays and to ensure that sustainable modes of transport are carried out to reduce the number of vehicles using the access, it is considered that the proposed development would comply with the principles of policies S2 and INF2 of the Local Plan.

#### Trees

The site is covered by a Tree Preservation Order (TPO) to the east of the site under TPO504. A Tree Survey and Arboricultural Method Statement have been submitted which outline and survey the trees at the site and their condition. The root protection areas have been outlined with a methodology for protective fencing to be erected to protect the trees whilst works would be carried out at the site. The proposed works would fall outside of the root protection areas of the trees as well as the access to the front of the site, where the visibility splays would fall outside of the trees protected by TPO504. Subject to conditions securing works to be carried out in accordance with the submitted Tree Survey and Arboricultural Method Statement, the proposed works would accord with the principles of policy BNE7

of the Local Plan.

### Conclusion

Whilst both policies E7 and INF10 recognise and support the erection of well designed, new buildings to support rural employment and rural tourism, this is only when the development is substantiated by a robust business case to offer as surety for the long term sustainability and longevity of the rural business/tourism facility and that the rural business could support the long term use of the proposed new buildings as well as supporting the social and economic needs of the local rural community. When assessing the Local Plan Part 1 and 2 as a whole, the plan polices seek caution against the erection of new buildings within the open countryside and this further substantiates the need for a strong business case to underpin the proposed development and offset the harm of the proposed permanent buildings. The business has not been started yet and the submitted Business Plan is based on projections, rather than demonstrated income and growth from the rural business. The proposed Business Plan and accompanying details are therefore, not considered robust enough to warrant the erection of up to 665sqm of new development in the open countryside as well as the extensive alterations to the existing buildings. There are no confirmed details on the number of jobs that could be created and the potential benefits to support to economic needs of the rural community cannot be quantified and relied upon at this time. The proposed development would introduce two new, large, permanent buildings into the open countryside which would be visually harmful and would therefore, fail to accord with policies E7, INF10, BNE1 and BNE5 of the Local Plan.

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

#### **Refuse**

1. The development is considered to be contrary to policies S1, S2, E7, BNE1 and INF10 of the South Derbyshire Local Plan Part 1 and policy BNE5 of the South Derbyshire Local Plan Part 2 as the development encompasses a new rural tourism and leisure business with associated permanent substantial new build accommodations and facilities in a rural area of open countryside, outside of and not adjoining a settlement boundary which is not supported by a robust business plan that clearly demonstrates the development to either be sited in a sustainable location or otherwise justified to be in an appropriate location where identified needs are not being met by existing facilities. The argument presented that 2no. of the 4no. total buildings proposed are conversions is also not accepted due to the level of structural alterations required, thus constituting new build and as such is not considered to add weight in favour of the development in respect of policy INF10 C.i of the Local Plan Part 1. The development is therefore considered to represent unwarranted intrusion into a rural area and unsustainable development.
2. The development is considered to be contrary to policies S1, E7, BNE1, BNE4 and INF10 of the South Derbyshire Local Plan Part 1, policy BNE5 of the South Derbyshire Local Plan Part 2 and the South Derbyshire Design Supplementary Planning Document as it proposes new permanent substantial buildings which are overly large and disproportionate when considered in the wider rural context and nearest neighbouring buildings, which also due to their proposed siting in combination would cause visual intrusion detrimental to the rural and open character of the area where views of the site are possible from several points in the public domain and from a public footpath (PROW5) to the west of the site. This includes the 2no. buildings argued to be conversions, which are considered to constitute new build due to the volume of new structural works required. It is considered that the use of planning conditions for landscaping details would

not overcome the visual harm as landscaping mitigation in itself would not adequately screen the development or be in character with the rural area and its landscape character.

Informatives: