

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

## **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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2016/1034	1.1	Overseal	Seales	5
9/2016/0898	1.2	Aston	Aston	24
9/2016/0479	1.3	Willington	Willington & Findern	42
9/2016/0811	1.4	Ticknall	Repton	53
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9/2016/0925	1.6	Ticknall	Repton	87
9/2016/0972	2.1	Shardlow	Aston	90

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 Director of Community and Planning Services' report 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 Director of Community and Planning Services, 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.

29/11/2016

**Item**            1.1

**Reg. No.**        9/2016/1034/NU

**Applicant:**  
**Mr J Doherty**  
**C/O Agent**

**Agent:**  
**Mrs Aida McManus**  
**AM Planning Consultants Limited**  
**17 Derwent Road**  
**Stapenhill**  
**Burton upon Trent**  
**DE15 9FR**

**Proposal:**        **CONTINUED USE OF LAND TO PROVIDE 5 GYPSY  
PITCHES ON ORIGINAL GROUND LEVELS WITH  
CREATION OF HARDSTANDING AND ACCESS ROAD  
AT THOSE LEVELS, ALONG WITH THE ERECTION OF  
AN AMENITY BLOCK, RETENTION OF BOUNDARY  
WALLS AND PROVISION OF DRAINAGE  
INFRASTRUCTURE (INCLUDING PUMPING STATION)  
AND LANDSCAPING ON LAND TO THE REAR OF 137-  
149 WOODVILLE ROAD OVERSEAL SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**     **04/10/2016**

**Reason for committee determination**

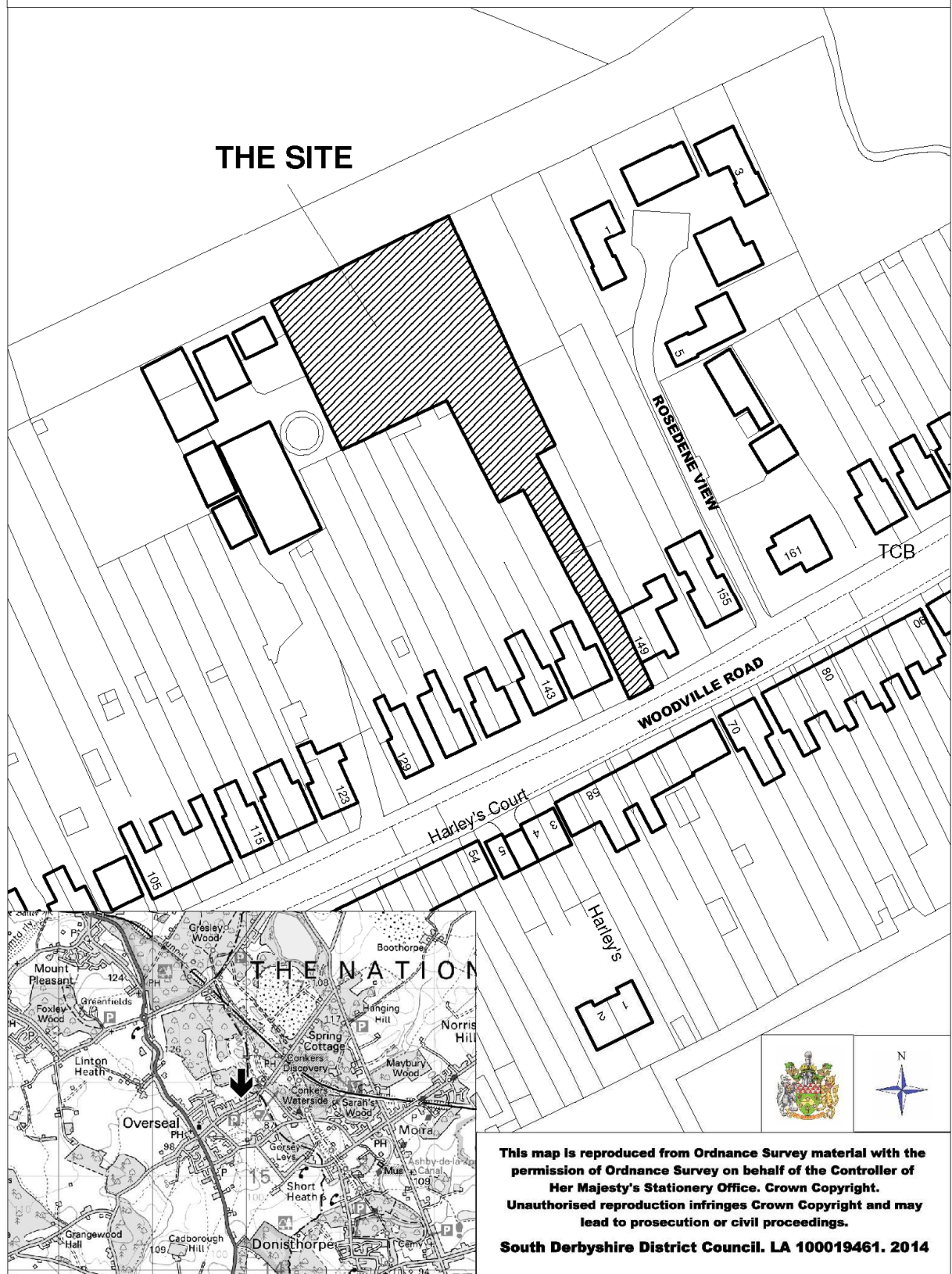
The item is presented to Committee at the request of Councillor Murray as unusual site circumstances should be considered by the committee.

**Site Description**

The site lies to the rear of terraced properties to the northern side of Woodville Road, mainly comprising former garden space to the rear of these properties. It sits within the settlement confines for the village. The site formerly was put to grass and orchard trees, with a gradual fall towards the northern boundary beyond which is a drainage ditch leading to the Hooborough Brook, some 150m east of the site. Consequently the site lies within the River Mease Special Area of Conservation (SAC).

The site was more recently been put to hardcore with significant raising of ground levels – up to around 1.8m in parts. A concrete slab was laid to part of this on which is sited a static caravan, a timber shed containing wash facilities, two portaloos, a small domestic shed and floodlighting on poles. Commercial and domestic vehicles,

9/2016/1034 - Land to the rear of 137-149 Woodville Road, Overseal,  
Swadlincote DE12 6LX



along with some plant and equipment, accompany these structures; whilst there is some storage of building materials and further hardcore around the site. The raised ground levels did sharply fall to a boundary fence to the rear and the garden of number 151. Since then the applicant has made efforts to remove this hardcore with a significant proportion of material removed at the time of writing, although the slab presently remains.

The access from Woodville Road is constrained by boundary walls and/or the dwellings of 147 and 149 to either side, before close boarded fencing makes up the remaining boundary between their gardens and the site. A telegraph pole also sits tight on edge of the access point to the public highway.

## **Proposal**

It is proposed to use the site for the provision of 5 gypsy pitches. The applicant has indicated this would be for him and his family. It is intended to remove the current hardstanding and concrete slab and revert to former ground levels/conditions prior to this development being pursued. Consequently much of the associated paraphernalia and the static caravan would need to be moved around the site when undertaking this work.

## **Applicant's supporting information**

A Coal Mining Risk Assessment concludes there is negligible risk from recorded coal legacy and a low to negligible risk from mine entries and unrecorded workings subject to further investigation and drilling/grouting if necessary.

A Drainage Strategy considers Sustainable Drainage System (SuDS) options have been reviewed and a treatment train is proposed that manages up to 1 in 100 annual probability storms (including climate change allowance). It is advanced that the strategy is based on an appropriate runoff rate for the site and provides mitigation for potential pollution of watercourses. Foul water would be discharged into the public sewer system where a suitable level of treatment would take place prior to discharge. The Strategy (amongst other things) recommends:

- installation of water butts on downpipes where appropriate;
- allowance for a fed gravity flow;
- provide a storage unit with an area no less than 200m<sup>2</sup> and at least 1.25m depth of sub base with 30% void ratio for water storage;
- consideration of the use of permeable paving; and
- construction of an interception ditch along the boundary adjacent to the rear gardens of Woodville Road with piped conveyance to an outlet headwall.

A Planning, Design and Access Statement (PDAS) outlines the proposals in relation to the submitted site layout. It is noted that the site is located within the Key Service Village of Overseal, and that matters of scale, layout, etc. would be appropriate in their context and not provide adverse impacts to adjoining occupiers. It is noted that the NPPF sets out a clear a presumption in favour of sustainable development which this proposal reflects, with benefits to the local economy and social interaction with the local community and other gypsies. The proposal contributes to the strategic

approach to providing additional pitches required by the GTAA. It is advanced that the site is not located within an area that enjoys the highest status of protection in relation to landscape and scenic beauty, and the proposal would not amount to an over dominant site within this residential location.

## **Planning History**

- E/2016/00016    Enforcement Notice and Stop Notice – Material change of use to use as a residential caravan site including siting and occupation of a residential caravan, importation of hardcore, raising of land levels and construction of a concrete pad, the siting of 2 wooden sheds, 2 portable toilets, parking of commercial and private vehicles, plant and equipment, and the erection of pole mounted floodlights – Issued 23 September 2016
  
- 9/2015/0346    Continued use of land to provide 5 gypsy pitches including retention of hardstanding and access road along with the erection of an amenity building, retrospective drainage works and landscaping – application withdrawn
  
- 9/2015/0602    The erection of a detached dwelling (in addition to the four consented) – Approved September 2015
  
- 9/2014/1001    The erection of four detached dwellings – Approved December 2014
  
- 9/2010/0922    Extension of time limit for implementation of 9/2008/0277 – Approved November 2010
  
- 9/2008/0544    Outline (all matters reserved except for scale, appearance and landscaping) for 4 dwellings (on part of the site) – Approved August 2008
  
- 9/2008/0277    The erection of a detached bungalow (on land formerly rear of 149) – Approved April 2008
  
- 9/2007/1467    The erection of a detached bungalow (on land formerly rear of 149) – Approved February 2008

## **Responses to Consultations**

The County Highway Authority notes the principle of 5 static caravans would result in a similar traffic generation to that possible under the extant permissions and given that suitable visibility can be achieved at the access, it is not considered that this would be to any highway safety detriment. The main concern would be getting the static caravans into and out of the site, given the need to manoeuvre within the carriageway. However, provided it is conditioned that prior to any caravans being delivered, a scheme is agreed in writing to provide a banksman or traffic control to control the traffic whenever the static caravans are moved, it is considered that it would be an inconvenience rather than a highway safety issue. The other concern is that it is likely that occupants would have a touring caravan as well as the static

caravan, causing an issue with the available parking; although a condition could ensure that parking areas are reserved for domestic vehicles only and not for caravans, trade or business vehicles.

The Coal Authority notes conclusions of investigations previously undertaken in support of permission ref: 9/2015/0602 in that coal mining legacy issues are not significant within the site; and as a result does not object.

The Contaminated Land officer notes that removing the imported material would resolve a lot of existing issues on site and standard phased conditions to investigation would be suitable, although investigatory work may determine the imported material presented no unacceptable risk. Overall contaminated land is not likely to be a limiting constraint.

The Environmental Health Officer notes the access abuts existing residential property therefore vehicles and that larger commercial vehicles associated with the applicant's business, might regularly access the site. The access route is not a bound surface and vehicles travelling across it, in particular commercial vehicles loaded with work equipment, could likely cause significant levels of noise that would be clearly audible in neighbouring property – potentially having a significant impact upon amenity. However it is confirmed that provided a condition can prevent the occupiers from bringing commercial vehicles to the site, concerns regarding noise from such vehicle movements would be alleviated.

The Environment Agency notes that the River Mease Developer Contributions Scheme applies whilst the pumping station should be built to adoptable standards and has an alarm in case of failure.

Natural England advises that the proposal is not likely to have a significant effect on the River Mease SAC or the SSSI subject to entering into the Developer Contributions Scheme and conditions to ensure sufficient capacity at treatment works to receive foul water flows, that the drainage scheme is fit for purpose, that surface water is not directed to a sewer and a construction management plan.

The Lead Local Flood Authority notes that with the hardcore removed it would allow some infiltration or interception of surface water on site, although likely to be minimal but still beneficial. With the hardcore and slab removed, there should not be any issue with the size of the storage fitting in to remaining area of the site.

Severn Trent Water Ltd raises no objection noting that the foul connection to the public sewer would require approval under their legislation.

## **Responses to Publicity**

The Parish Council objects to the application, raising the following concerns:

- i) the access to the site is totally inadequate for caravans;
- ii) the development and proposed use would be out of keeping with this densely populated residential area and is situated immediately behind several houses;

- iii) there are existing parking problems opposite the entrance which would make access and egress for caravans extremely difficult as well as causing problems for others parking on the road;
- iv) the earlier permission was for housing which would have resulted in cars using the access, not caravans; and
- v) the access is opposite the school, which exacerbates the problems of access and potential danger.

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

#### Principle of development and need for gypsy pitches

- a) there are ample pitches already available in Overseal and close by in neighbouring villages such that there is no justification for the creation of a new site;
- b) recent permission at The Conifers, Park Road has extended that site;
- c) new sites granted nearby should be at capacity before this site is allowed;
- d) there are no energy efficiency plans, no plans to encourage biodiversity, no planting or landscaping and no sustainable drainage design, suggesting this is not 'sustainable' development;
- e) loss of land suitable for housing;
- f) size of the site cannot accommodate 5 'pitches' given that which can comprise a pitch;
- g) the proposal is 'garden grabbing';
- h) whether the applicant qualifies as a gypsy;
- i) the applicant states the additional pitches are for his children yet it will be some time before they are old enough;

#### Impact on services and facilities

- j) the school is at capacity;
- k) additional strain on the local doctors;

#### Balance with the settled community

- l) Overseal has over 75% of traveller pitches for the District already;
- m) the resulting number of persons who would actually live on the site;

#### Highway safety

- n) Woodville Road already has capacity and safety issues;
- o) additional traffic poses a danger to other road users and pedestrians;
- p) insufficient visibility from/to access, especially with on-street parking;
- q) inadequate access and turning space on site;
- r) no passing places along the access;
- s) no pedestrian/vehicle segregation along the access;
- t) obstruction of the public highway/problems caused in bringing caravans to the site given the access width, etc.;
- u) emergency, refuse and service vehicles would not be able to access the site;

- v) recently constructed walls narrow the access further;
- w) insufficient off-road parking;
- x) effect on other residents' ability to park their own vehicles;

#### Impact on neighbouring amenities

- y) high security lights shine directly into adjoining properties;
- z) overlooking/loss of privacy from proposed caravans on raised ground;
- aa) access is down the side of houses and gardens;
- bb) disturbance and noise from the site/vehicles accessing it – especially up to 5 families in due course;
- cc) greater noise breakout through caravan walls;
- dd) no mention of the surfacing proposed for the access;
- ee) use/parking of commercial plant and machinery on the site;
- ff) operation of business from the site;

#### Visual and biodiversity impact

- gg) the site is visible from Woodville Road;
- hh) the site used to contain many mature trees including an orchard and there would therefore not be a biodiversity gain;
- ii) the proposed development will not be in keeping with the National Forest;
- jj) loss of wildlife;

#### Drainage, water quality and sanitation

- kk) drainage report does not relate to the proposed levels and layout;
- ll) insufficient information provided;
- mm) negative impact on the River Mease;
- nn) elevated flooding risk off-site as a result of the development;
- oo) the applicant and his family are currently residing on the land without any appropriate means of drainage in place;
- pp) the drainage ditch to the rear of the site has been blocked by rubble;
- qq) the applicant relies on drainage to a ditch at the rear which is in third party ownership, where a right to drain has been previously refused by the landowner;
- rr) localised flooding in the gardens of the adjoining properties;
- ss) the raising of the land means the drainage proposed would not work;
- tt) it is doubted that a mains connection is feasible;

#### Land contamination and waste

- uu) the bringing on of material is likely to have contaminated the site;
- vv) will evidence to certify the material as 'clean' be obtained;
- ww) no designated space for refuse/recycling collection and storage;

#### Design and character

- xx) as the surrounding properties are Victorian/Edwardian in design, the development would not be in keeping, nor enhance the area;

- yy) the land levels have been raised and a concrete raft poured, of which there is no detail as to its retention or removal;
- zz) there are no details of the elevations, design or appearance of the caravans themselves;
- aaa) over-development of the site;
- bbb) inadequate external amenity space for occupants;

#### Land stability

- ccc) the coal report does not consider the alternative layout and housing type proposed;

#### Accuracy and content of the application

- ddd) misleading to state there will be no new or altered vehicle access;
- eee) form states the development is not within 20 metres of a watercourse, but the northern boundary is located immediately adjacent to a tributary brook to the River Mease;
- fff) the applicant does not own number 149;

#### Other matters

- ggg) works undertaken to date all unauthorised;
- hhh) removal of boundary fence to rear of site and encroachment onto neighbouring land;
- iii) damage to public highway around the access;
- jjj) preventing of neighbours parking on the public highway;
- kkk) removal of mature hedging and trees on neighbouring land, without consent;
- lll) sets a precedent for use of garden land for commercial gain;
- mmm) applicant has shown little desire or intent to live harmoniously within the local community;
- nnn) applicant shows little intention to accord with the law/rules;
- ooo) possible rise in anti-social and criminal behaviour;
- ppp) any LPG storage should be controlled;
- qqq) unauthorised electric connection made;
- rrr) Council tax for neighbours should be reduced; and
- sss) impact on house prices.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape

- Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF8 (The National Forest);
- 1998 Local Plan (saved policies): H5 (Village Development), EV9 (Protection of Trees and Woodland) and EV11 (Sites and Features of Natural History Interest).

## **Emerging Development Plan Policies**

The relevant policies are:

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

## **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (PPTS)
- Noise Policy Statement for England (NPSE) 2010

## **Planning Considerations**

It is important to first appraise Members of the recent activity on site and clarify the nature of the application before them for determination – notwithstanding what might have occurred on site and is presently occurring, with or without permission. The applicant began works on the site in early 2016. The matter was investigated and an intent to implement the 2014 permission was established. The applicant was advised of his outstanding pre-commencement conditions and invited to make an application to discharge these, which he has done. Before a decision could be made, the previous application was submitted. That application was withdrawn before it could be considered by the committee, it carrying a recommendation of refusal. An Enforcement Notice has since been served to secure the cessation of the use and removal of the hardcore and structures. The applicant has begun works to comply with that Notice although an appeal against the Notice has been lodged at the time of writing. This appeal seeks lesser measures to resolve the breach (through implementing the development now applied for) and further time for compliance.

The current application recognises the recommendation previously made and attempts to overcome the concerns raised – namely drainage of the site, potential contamination issues and visual effects. The supporting PDAS also seeks to address the concerns as to disturbance to adjoining occupiers from vehicular traffic. It should be made clear that the current application seeks to provide the development based on the original ground levels and with a reduced area of hardstanding.

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

- The weight to be given to national and local planning policy;
- The need for gypsy pitch provision;
- Access to services and impact on local infrastructure;
- Balance with the settled community;

- Surface water drainage and biodiversity;
- Foul drainage and contamination;
- Land stability;
- Highway safety;
- Impact on neighbouring amenity; and
- Impact on character and visual amenity.

## Planning Assessment

### Weight given to national and local planning policy

The Development Plan forms the primary policy consideration for this application, although the NPPF, PPTS and emerging policy are material considerations carrying varying degrees of weight. Policy H22 can be given full weight given its recent adoption, notwithstanding that it carries intent to create a site allocations document to meet the need in a planned fashion. This is because the policy also handles 'reactive' situations, such as this application, stating:

*"...[in] determining planning applications for required potential sites, sites will be considered suitable provided they are of an appropriate scale and character and the following criteria are met:*

- i) development does not result in an unacceptable impact on the local environment, including biodiversity, heritage assets or conservation, the surrounding landscape (unless capable of sympathetic assimilation) and compatibility with surrounding land uses; and*
- ii) safe and convenient vehicular and pedestrian access to the public highway can be provided with no undue adverse impact on the highway network; and*
- iii) the movement of vehicles to and from the site will not cause undue disturbance or be inappropriate for the locality; and*
- iv) there is adequate space for parking, turning and servicing on site; and*
- v) the site is reasonably accessible to local services including health services, shops, education, public transport and other community facilities; and*
- vi) the site is not located in an area at undue risk of flooding; and*
- vii) suitable landscaping and boundary enclosures are provided to give privacy to both occupiers and local residents and minimise impact on the surrounding area; and*
- viii) the site provides a safe and acceptable living environment for occupiers with regard to noise impacts, adequate on site facilities for parking, storage, water supply and electricity supply, drainage and sanitation".*

The site falls within a settlement confine, close to services and facilities required to support occupants of the site, and it is not at an undue risk of flooding, it does not have an impact on heritage assets, and water and electricity supplies are possible. The following discussion addresses the remaining criteria of the above policy and other material considerations raised during the publicity process.

### The need for gypsy pitch provision

The GTAA, published in June 2015, sets out a need for 14 pitches over 5 years from 1 April 2014, and subsequent need for 7, 8 and 9 pitches for each 5-year period thereafter respectively. In the interim to the adoption of a site allocations document, this need must be met by individual applications, such as this one, at a rate of 2 to 3 pitches per annum. Since April 2014 permission has been granted for 8 pitches and hence it can be demonstrated that need is being met at a pace which is required by the GTAA. The Council also met and exceeded its identified needs under the previous GTAA, adding to the argument that sites readily become available in the District and there is no issue with a failure to meet the needs of the gypsy community. Notwithstanding this, the Council cannot demonstrate a 5 year supply of deliverable pitches given it does not have an adopted plan document for this purpose, nor sufficient sites with permission. Hence whilst significant weight must be afforded to the proposal, it can be tempered by the foregoing evidence as to historical and continuing supply of pitches in line with projected needs.

#### Access to services and impact on local infrastructure

This site is located within the settlement confines of Overseal where a number of local services and facilities exist. There is reasonable access to sustainable transport options and additional vehicle movements generated by the proposal are unlikely to have a negative impact on the capacity of the wider highway network – notwithstanding representations made. Whilst it is acknowledged that the primary school and doctors surgery may have capacity issues, the scale of development proposed falls below that which would normally command financial contributions to offset increased pressures arising from the proposal. In addition, the extant permissions allow for 5 dwellings meaning this proposal would not provide additional pressure above and beyond that already allowed.

#### Balance with the settled community

The PPTS notes that sites in rural areas should not dominate the nearest settled community. There is some debate as to whether this is a rural area given it is within the settlement confines of the village, but the village itself cannot be said to be in or close to an urban area. It is noted that the site would extend the gypsy community in the wider area, which includes sites nearby on Park Road and in North West Leicestershire. However, a number of the sites outside of the District are not exclusive to gypsy accommodation. The balance with the settled community is a difficult concept to grapple with in the absence of associated guidance for methodology, thresholds, proximity, etc. In this instance the site would represent a very small minority of the overall number of families in the village. This would remain the case when including the Park Road site. Whilst specific numbers are not readily available for North West Leicestershire sites, the wider the catchment for such sites, the greater the size of the settled community becomes. In this vein, it is not considered that the settled community would be overwhelmed by the proposal.

#### Surface water drainage and biodiversity

The site was formerly classified as having a greenfield rate of drainage. Now, notwithstanding the ongoing efforts of the applicant to 'make good' the existing issues, is, more or less, impermeable. The current approach to developing the site

by returning the ground to original levels is noted along with the Drainage Strategy. There were previously fundamental concerns with the Strategy given the 'mis-match' between that proposed in the way of surface water drainage and the feasibility of that solution being successfully implemented. The fact that it has not been updated to this application is only fatal if it fails to cater for the development now proposed. Given it was written to accommodate a more 'intensive' situation, this is not considered to be fundamental to its relevance now.

The Drainage Strategy calculates the greenfield runoff rates from the site area as 0.9l/s. However, it recognises that "in reality, high rates of runoff are expected from the existing site", as it is largely impermeable (clay). The proposal seeks to utilise the original ground levels and permeable hardstanding, along with some areas of vegetation and below-ground attenuation chambers. Since the previous report was written, more work had been completed to establish capacity requirements but this was not reported to Members given that the application was withdrawn before consideration by the committee. It had been established that sufficient capacity could likely be provided without the need to remove the slab (i.e. in terms of the area of the site which would need to be disturbed to accommodate it). However the feasibility of this work and the successful operation of the drainage system, as well as the reasonableness of requiring this when the applicant's intent then was to retain the material, were still in question. With this 'constraint' now removed, the proposed attenuation appears feasible.

The strategy intends to throttle outfall from the site at a peak rate of 5l/s. It is advanced that a discharge to adjacent land already exists by way of the natural movement of water over and through the ground. Creation of headwalls within the site would not change this characteristic. Prior to the previous committee meeting the LLFA had advised that, due to the nature of the SuDS possible here, low flow rates could lead to blockages and subsequent failure of the system. In this respect a discharge rate to mimic the natural runoff rate would not be appropriate and, whilst providing an increase in discharge rate, a higher discharge greenfield run-off rate is considered sustainable. The altered drainage characteristics to neighbouring properties would be addressed under the Enforcement Notice and it is noted that a new filter drain would capture water arriving on site and carry it to the attenuation chambers.

Turning to water quality, it is envisaged that water would be collected and conveyed via a series of filter drains, providing pollutant removal as water passes through the fill material, before passing through and being stored within the sub-base of the attenuation chambers with controlled outflows. It is advanced this provides 2 separate stages as part of a SuDS treatment train. With it now satisfactorily demonstrated that surcharging of the system would not occur, there is a low risk of untreated water discharging to the watercourse and in turn the Hooborough Brook and River Mease. The Council must only give planning permission where it can be demonstrated that the development would not adversely affect the River Mease SAC and SSSI. Natural England makes it clear that its 'no objection' response is on the basis that its specified conditions are attached – one being that the drainage scheme is fit for purpose. In this case, it is considered there is very unlikely to have an adverse effect. A screening exercise has been carried out pursuant to the Habitat Regulations and this determines that an Appropriate Assessment is not required,

subject to the applicant entering into a planning obligation to secure a contribution of £3,165 towards the River Mease SAC Developer Contributions Scheme.

#### Foul drainage and contamination

The foul water from caravans and amenity building would be discharged to the sewer on Woodville Road via a pumping plant. Severn Trent Water had no objection to the previous proposal, which was similar in this respect. Conditions could control the position and noise attenuation for such a system, although it is indicated to be installed below ground. The DCS would be triggered in this event and capacity exists to accommodate the development given the extant permission. A planning obligation should be secured to ensure the Habitat Regulations are satisfied.

Following the publication of the previous report, the Contaminated Land Officer had revised their response to one of objection due to an unknown make-up of the material which had been imported. With its removal from the site and this scheme proceeding on the basis of limited creation of hardstanding, there is unlikely to be significant concern.

#### Land stability

The response of the Coal Authority is noted such that there is not considered to be a mining legacy risk. The made ground is to be removed prior to additional caravans being brought onto the site and hence there is no concern in this respect.

#### Highway safety

On the advice of the Highway Authority, the site is not considered to cause highway capacity issues – especially when considered against the extant permissions. The main concern would be getting static caravans into and out of the site, given the need to manoeuvre within the carriageway. Observations of the existing caravan arriving demonstrate this concern and it is noted that residents echo this view. However, the Highway Authority considers that it would be an inconvenience rather than a highway safety issue, and that it can be controlled by condition through an agreed scheme to provide a banksman or appropriate traffic control whenever static caravans are moved. The Highway Authority also has concerns that touring caravans, as well as the static caravan and any commercial or domestic vehicles, might compromise the availability of parking. It is therefore considered a condition should be attached to ensure that parking areas are for the parking of domestic cars only and not for caravans, trade or business vehicles.

Whilst the banksman/traffic control solution is not ideal and the access is clearly very tightly constrained making movement of static caravans difficult, such caravans are less likely to be moved than touring caravans and other vehicles. The approach to protecting parking provision is also appropriate.

#### Impact on neighbouring amenity

The extant permission for conventional housing was assessed as acceptable in respect of overlooking and shading impacts. This proposal would still accord with

separation distances set out in supplementary guidance, and a betterment could be argued given all accommodation would be single storey. There is not considered to be a privacy issue here.

Previously there was concern as the disturbance to neighbouring occupiers from commercial vehicles accessing the site. At the time the applicant only 'offered' a limit on vehicles heavier than 3.5 tonnes and this, compared to the extant housing permissions, would constitute a change in the nature of the vehicles likely to come and go on a daily basis. In the absence of any noise assessment analysing the likely effects, a precautionary approach must be taken. For this reason, the response of the Environmental Health Officer (EHO) is appropriate and the applicant has accepted this is workable and reasonable. Given the situation such a condition is considered reasonable in terms of the NPPF tests for conditions, and it also accords with the other tests.

Policy H22 requires the movement of vehicles to and from the site not to cause undue disturbance whilst policy SD1 states that the Council will only support development that does not lead to adverse impacts on the environment or amenity of existing occupiers. The NPPF supports these provisions whilst the PPG sets out the recommended approach to dealing with noticeable and intrusive and/or disruptive impacts – pointing towards either tight use of conditions or avoiding the development altogether. It is of significance that the EHO did not previously recommend a refusal on the basis of the impacts arising – instead it was considered alongside the other impacts and benefits of the proposal. With a further improvement on the previous proposal, it is considered that the negative impacts are further reduced to the degree that, with the condition, there would not be an unacceptable impact on neighbouring amenity.

#### Impact on character and visual amenity

Assessment of the visual impacts of the development has been made from public land to the north and from Woodville Road. In respect of the latter, views would be limited to along the access track where most of the site would be obscured by boundary treatments and the amenity building, and any caravans visible would be set some way back. Nevertheless their appearance would not harmonise with the traditional built form in this locale. The National Forest planting to the north screens the medium to long distance views towards the site. Short distance views are possible from an informal trodden footpath through the woodland itself however, and this passes close to the site where existing screening falls away. Here the impacts would be much more apparent by the lack of woodland, but given the original levels are to be restored and caravans 'sat down' on the site behind proposed planting; their prominence in the public realm would be reduced to an acceptable degree.

#### Summary

It must be recognised that significant weight should be given to the provision of 5 further pitches which would meet identified needs for the District, and the lack of a rolling 5 year supply adds to this weight. The concerns of the previous application in respect of drainage, contamination, amenity and visual impacts are now all addressed to an acceptable degree – either by removal of the hardcore imported

onto the site or by refining the design, and conditions and obligations are now considered to meet the relevant tests for their imposition. Given this position, the Council's derogation tests under the Habitat Regulations can be satisfied. Members should also take comfort from the Enforcement Notice requiring the 'correction' of the current issues on the site and the fact that the only grounds being pursued at appeal are those relating to lesser measures (effectively seeking consent for this revised scheme now propose) and time for compliance. It is therefore a certainty that the Notice will be fully enforceable in due course, and permission here would not undermine this enforceability.

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

## Recommendation

- A. That the committee delegates authority to the Planning Services Manager to complete a legal agreement under section 106 of the 1990 Act to secure the River Mease SAC DCS contribution as outlined above;
- B. Subject to A, **GRANT** permission subject to the following conditions:
  - 1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
  - 2. The development hereby permitted shall be carried out in accordance with plans/drawings PD118/502 Rev A and PD118/503 Rev A, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended). For the avoidance of doubt, this permission does not authorise the erection of a toilet block as indicatively shown on the above referenced plan.  
Reason: For the avoidance of doubt.
  - 3. This permission does not authorise the use of the land as a caravan site by any persons other than Gypsies and Travellers as defined in Annex 1: Glossary of the Government's Planning Policy for Traveller Sites (August 2015), or any subsequent policy or guidance which replaces that definition.  
Reason: To safeguard the site for occupation by Gypsies and Travellers.
  - 4. There shall be no more than 5 pitches on the site within which no more than 2 caravans shall be stationed at any time, of which only 1 caravan shall be a static caravan.  
Reason: For the avoidance of doubt and to ensure the site (along with any others in the vicinity) does not dominate the nearest settled community, in the interests of neighbouring and visual amenity, and to ensure occupiers of the

wider site are afforded sufficient room for associated vehicles and amenity space.

5. The only caravans permitted to be stationed on the wider site as extended shall be those which comply with the definition as set out in the Caravan Sites Act 1968.

Reason: To safeguard the visual amenity of the countryside in accordance with Saved Environment Policy 1 of the adopted Local Plan.

6. No commercial activity or outside storage related to any trade or business shall take place on the site, and (other than for construction works in implementing this permission) no commercial vehicles or machinery shall be brought to, parked or stored on the site.

Reason: To protect the visual and aural amenities of the locality.

7. 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 gates, walls, fences or other means of enclosure shall be erected on the site (except as authorised by this permission or required by any condition attached thereto) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To ensure that parking and turning space is not compromised and any such structures are appropriate to the character and appearance of the building.

8. No development shall commence until details of the finished ground levels for the pitches and areas of hardstanding and landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall be based on a topographical survey of the site carried out following the removal of existing material on the site. Thereafter the development shall be implemented in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally, recognising that initial setting of levels is crucial in achieving effecting drainage of the site.

9. Notwithstanding the approved plans, no development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include evidence of infiltration testing and details that proposed surface and foul water drainage means are of suitable capacity to accommodate flows, as well as setting out measures to ensure the maintenance and continued efficient operation of the surface and foul water drainage facilities (including alarm systems and mitigation measures in the event of a failure of any pumping stations). The scheme shall be carried out in strict conformity with the approved details before the development is first occupied and the drainage facilities shall be managed in accordance with the approved maintenance plan thereafter.

Reason: In the interests of flood protecting and pollution control, recognising that as the site falls within the catchment for the River Mease SAC & SSSI

drainage of the site needs to be wholly appropriate for the proposed layout and thereafter carefully controlled.

10. a) The development shall not be commenced or continued until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.
- b) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it, recognising that measures may need to be taken as part of initial groundworks.

11. Prior to the construction of the amenity building, precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

12. Prior to the creation of any hardstanding, details of the surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall thereafter be used. Where porous materials are used, subsequent repair and maintenance of those surfaces shall be undertaken with an equivalent material.

Reason: In the interests of ensuring surface water drainage operates effectively for the life of the development and in the interests of visual and aural amenities.

13. Prior to any caravans being brought onto the site, a scheme to provide a banksman or traffic control to control the traffic whenever the static caravans

are moved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter movement of caravans on or off the site shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety.

14. The parking and turning area between the caravans shall be laid out prior to the first occupation of the caravan(s) to which it serves and thereafter maintained throughout the life of the development free from any impediment to its designated use as such.

Reason: In the interests of highway safety.

15. All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the site or the completion of the development, whichever is the sooner; and any trees which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and National Forest objectives.

#### Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining features are unexpectedly encountered during development, these should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

Having regard to the provisions set out under the Caravan Sites and Control of Development Act 1960, a Caravan Site Licence and supporting licence Conditions will be required. Please contact Environmental Services, South Derbyshire District Council, Civic Offices, Swadlincote, Derbyshire (01283 595950).

It is the responsibility of the applicant to ensure safe and satisfactory transfer of static caravans to the site. Any damage to the highway caused by the movement of caravans and associated traffic shall be rectified at the applicant's expense. The highway should be inspected with a Derbyshire County Council Highway Inspector before and after the caravans are delivered to site to agree the extent of any damage.

This project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

29/11/2016

**Item**            **1.2**

**Reg. No.**        **9/2016/0898/MAF**

**Applicant:**  
**Richmond Care Village**  
**Holdings Ltd**  
**South Street**  
**Letcombe Regis**  
**OX12 9JY**  
**C/O agent**

**Agent:**  
**Andy Ryley**  
**PRC Architecture & Planning Ltd**  
**24 Church Street West**  
**Woking**  
**Surrey**  
**GU21 6HT**

**Proposal:**        **ERECTION OF 37 CARE APARTMENTS (USE CLASS C2) AND A VILLAGE CLUBHOUSE IN LIEU OF 36 DWELLINGS APPROVED UNDER PLANNING PERMISSION REF: 9/2014/0232 (TO FORM AN EXTENSION TO THE CARE RETIREMENT VILLAGE) TOGETHER WITH RECONFIGURATION OF 38 DWELLINGS (USE CLASS C3) PREVIOUSLY APPROVED UNDER THE SAME PERMISSION ON LAND OFF MAPLE DRIVE ASTON ON TRENT DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **08/09/2016**

**Reason for committee determination**

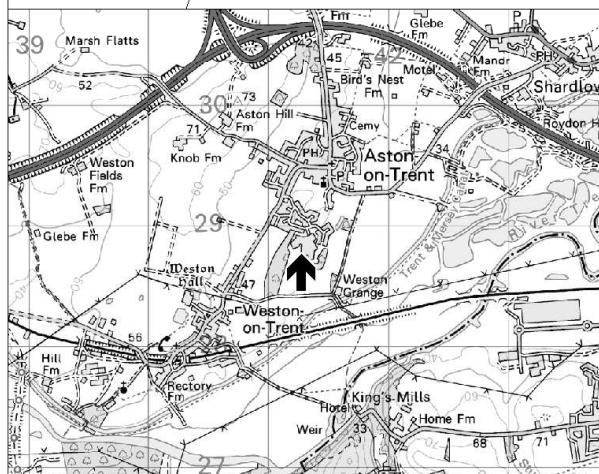
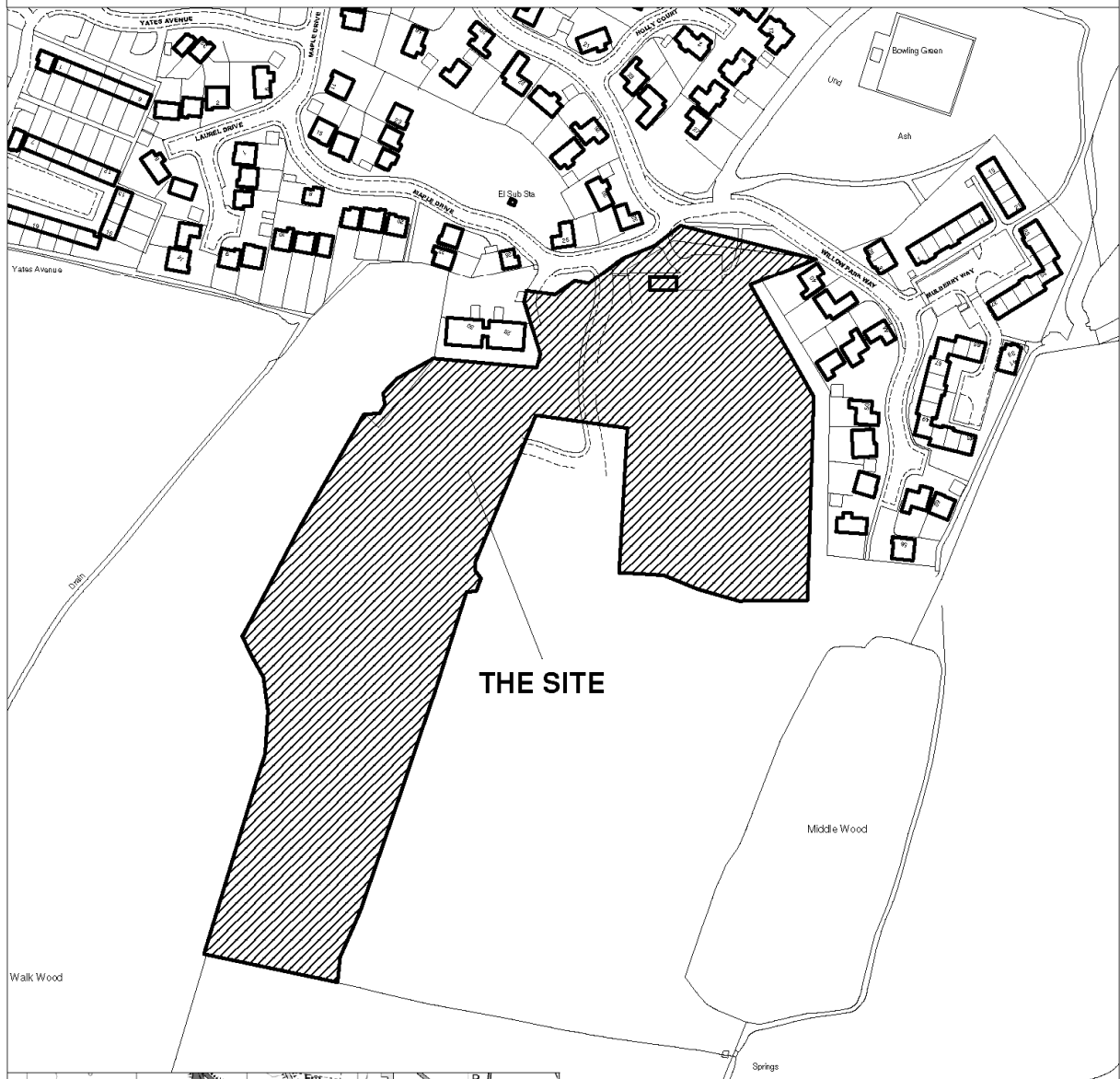
The item is presented to Committee as it is a major application subject to more than two objections.

**Site Description**

The wider site is part of the former Aston Hall Hospital the majority of which was re-developed for residential purposes at the end of the last century, but the land and buildings concerned remained in use for hospital purposes until the end of 2004. The 2014 permission has been implemented with the former hospital buildings cleared and the majority of the care home accommodation now under construction or nearing completion. The site concerned here comprises the parts previously granted permission for 74 dwellings to the northern end ('phase 3') and western edge ('phase 2') of the site.

The Grade II\* listed Aston Hall Mansion is some 200m to the north of the site access, beyond the existing housing development; whilst the new buildings on the site curtail views towards the open countryside to the south and east. Views from the

9/2016/0898 - Land off Maple Drive, Aston on Trent, Derby (DE72 2DG)



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

south are available from the public footpath linking Weston Road with the River Trent and Mersey Canal at Weston Grange. Long Walk Wood and Middle Wood bound the existing complex to the west and east respectively and these largely screen the buildings from Weston Road and Shardlow Road. Concessions secured by a previous Section 106 Agreement enable public access through the woods and along the southern periphery of the hospital, along with use of the now disused playing fields. Vehicular access to the site from Weston Road is gained off Maple Drive via Willow Park Way.

## **Proposal**

The proposal relates to two distinct elements of the site, previously granted permission for 74 dwellings under the 2014 permission in two 'halves' – apportioned approximately 50:50.

### The northern 'half' ('phase 3')

Instead of providing 36 dwellings (use class C3), 37 care apartments and a village clubhouse would be constructed. The care apartments would be mostly 2-beds with a couple of 1-bed apartments, all with their own front door out onto communal gardens and parking areas. These units are designed to cater for a more independent lifestyle. However occupants are likely to be couples, one or both of whom has a need for nursing care due to infirmity or disease that the partner can no longer provide. All accommodation would be ground and first floor only, with the design to mirror that already approved and under construction.

The clubhouse would sit 'within' this cluster of apartments as a separate building adjacent to parking and amenity areas, and directly across from the existing main building under construction. 51 parking spaces would be provided. Footways and paths would allow easy pedestrian movement around the site and connecting with the facilities in the main buildings (a restaurant, café/bar, auditorium, library, IT suite and wellness spa (including swimming pool, hydrotherapy pool, gymnasium, sauna and steam rooms, studio and treatment rooms along with associated ancillary facilities) and in the wider settlement.

### The western 'half', adjacent to Long Walk Wood ('phase 2')

The originally approved 38 dwellings would be retained on this part of the site, with the proposals here limited to adjusting the mix and tenures to reflect the loss of the 36 dwellings as outlined above (and thus no affordable provision therein); as well as consequential design and layout changes. 11 dwellings would be offered as a mix of affordable rented and shared ownership, as 2 and 3-bed terraced and semi-detached dwellings. The balance of dwellings for the open market would be a mix of 3 and 4+ bed detached dwellings.

Most dwellings would have at least 2 spaces, although the terraced/semi-detached housing would have 1.5 spaces each. Additional parking laybys are provided on the access road providing a further 8 spaces.

## **Applicant's supporting information**

A Planning Statement outlines the basis for the application with the applicant seeing a high demand for the units under construction and ongoing interest in the development. This, together with the continuing rising need for elderly accommodation, both nationally and in the locality; has resulted in the applicant wishing to extend the retirement village accordingly. In addition to this a reconfiguration of the phase 2 residential area is proposed now that a developer (Radleigh Homes) is to construct these properties. It is advanced that the principle of development for Class C2 and C3 use has been long established on this site and the proposed scheme complies with current development plan and NPPF. The Council has more than a five year housing supply, with an oversupply identified, which would ensure the removal of 36 residential properties would not result in a detrimental impact to the supply figures over the Plan period. The scheme would continue to be a sustainable development in terms of transport matters, geo-environmental issues, flood risk and drainage, and the principles of the previously consented scheme would be applied. Accordingly the proposed development is considered to comply with planning policy and would result in a refined development that would continue to be of the highest quality design.

The Design and Access Statements outline that the proposed development would provide additional care apartments comprising predominantly two storeys and rooms in the roof, together with a single storey village clubhouse. The scheme layout of the scheme has been designed to closely reflect the layout of the care apartments of the consented scheme with the care apartments being accessed from a single cul-de-sac from the main spine road leading to parking courts close to the front of the units. The layout of the dwelling houses has been reconfigured to take account of the locally-based developer house types and to further enhance the built form with increased natural surveillance and sense of place. The design and appearance would match that already consented and under construction on the remainder of the wider scheme. The materials would match accordingly whilst the proposed landscaping would ensure the site ties in with the remainder of the development with the large areas of amenity space for the residents and the retention of the previously consented public routes through the wider site.

A Landscape Appraisal & Design Statement notes the existing site landscape is badly degraded by unsympathetic development both within and adjoining it. However it includes features of scenic and conservation value, in particular the Long Walk Wood and Middle Wood. The proposals would replace existing site structures spread across the centre of the Site with a new build development of generally reduced roof heights and of more sympathetic massing, design and materials that is set back against the woodland backdrops to either side. As the existing structures are largely hidden from the surrounding countryside, public roads and other rights of way it follows that the proposed buildings will themselves be similarly, or even less, visible from outside the site boundaries. Indeed certain views would be improved by the introduction of the landscaped parkland corridor, especially north/south views to and from Aston Hall itself. No features of landscape or conservation value would be lost or harmed by the proposals, and whilst a number of trees would be removed these are of low value. The existing woodland areas would not only be retained but would be improved assisting in the wider landscape, arboricultural, ecological and access

enhancements to the site which would benefit the wider countryside and public enjoyment of it.

An addendum to the original Transport Assessment (TA) notes that the consented scheme considered junction capacity for the Western Road/Willow Park Way junction, and demonstrated that there would be sufficient capacity to accommodate the additional traffic generated by the overall proposals at that time. The proposed scheme has been compared against the consented for trip generation and a reduction in movements is anticipated, due to the change in the type of accommodation and the mobility of the occupants therein (16 fewer two-way vehicular trips during the AM weekday peak period and 18 fewer two-way vehicular trips during the PM peak). It is noted that the village clubhouse would only be used by care village residents such that all associated trips would be internal to the site. It is therefore concluded that there are no highway or transport grounds upon which the current application should not be approved.

The TA is also complemented by a Travel Plan which aims to encourage staff and residents of the development to use sustainable transport modes, incorporating the establishment of a Travel Plan Co-ordinator; Welcome travel packs; an annual travel survey; a car sharing scheme; a Community Transport Scheme; and public transport discounts.

A Phase 1 Geo-environmental Desk Study provides an up to date human health and environmental contamination risk assessment and concludes that contamination does not pose an unacceptable risk to development of the site. Nonetheless the Study recommends that ground investigation would be prudent and also necessary to confirm and refine the ground model, but as the risks associated are low such investigations could be undertaken as part of the conditional requirements.

An Ecological Assessment in 2014 found that some of the buildings on the site were in use, or had the potential for use, to support roosting bats. No evidence of habitats for other protected species was found. In view of these findings a Bat Survey was subsequently undertaken and comprised a separate report. The Survey identified the potential for the proposal to mitigate for the loss of habitat by provision of alternative roosting opportunities in new buildings. Various mitigation and enhancement measures were recommended. An addendum accompanies this application with a view to identifying any additional ecological constraints that may have arisen 2014. The development site now comprises a cleared construction site and therefore its general interest to protected species is considered extremely low due to lack of suitable habitat and levels of disturbance. No conclusive evidence of protected species presence was identified during this most recent site walkover, however various precautions are recommended in respect of amphibians, badger, bats, birds, reptiles and Long Walk Wood.

The 2014 Heritage Statement concluded that there are no designated heritage assets on the site or in close proximity such that they would be harmed by the proposed development. Two non-designated assets were not considered to be of sufficient importance to preclude development. Furthermore the site of the former ice house would not be affected. Evaluation identified buried pre-historic features on the site but concluded that any development impact on such features could be mitigated

through a conditional requirement to undertake a programme of archaeological evaluation. That evaluation has been carried out and the relevant condition discharged.

The Flood Risk Assessment (FRA) & Drainage Strategy shows that implementation of the proposed development in accordance with an approved drainage scheme can be accommodated with minimal risk of flooding to the development and result in no increase to risks of flooding off-site. An addendum to refresh this work in respect of the proposals now submitted reaches the same conclusion.

## **Planning History**

The wider site first became a hospital in the 1930s and incremental development continued into the 1990s. Redevelopment of the some of the former Aston Hall hospital site for residential purposes was allowed in the mid-1990s (ref: 9/0292/1038). Since then there have been a number of permissions granted for redevelopment:

- 9/2006/0625: Outline application (all matters to be reserved) for the demolition of existing buildings and the construction of an assisted living development (comprising a maximum of 13,000 sqm of Class C2 floor space) and a maximum of 70 assisted living accommodation units – Approved July 2006.
- 9/2007/1402: Demolition of existing buildings and erection of a continuing care retirement community (Class C2) comprising 60 care bedrooms, 75 care suites and 140 care apartments – Approved April 2008.
- 9/2010/1022: Application to extend the time limit for implementation of 9/2007/1402 – Approved April 2011.
- 9/2014/0232: Demolition of existing buildings and erection of a continuing care retirement community (class C2) comprising 60 care bedrooms, 49 care suites and 76 care apartments together with 74 dwellinghouses (class C3) – Approved September 2014.

## **Responses to Consultations**

The Lead Local Flood Authority raises no objection subject to imposition of conditions to secure appropriate sustainable surface water drainage.

Natural England has no comment to make.

Derbyshire Wildlife Trust considers adequate survey work has been completed in support of the scheme.

The Development Control Archaeologist notes that the previous consent secured further investigation and two main areas were excavated during 2014. All reports have been completed in relation to this material and the site archive has been deposited with Derby Museum. During this work, it was agreed that archaeological

remains in the proposed 'park' area running north-south between the retirement village and the housing to the west would be preserved in situ because levels were proposed to be raised in this area. This is the only part of the site where archaeological deposits have not been fully excavated, and therefore remains vulnerable to any proposed changes in design or landscaping. However as the 'park' area appears identical to that approved in 2014, there is not considered to be an archaeological impact.

The Strategic Housing Manager seeks the provision of 30% affordable housing on the phase 2 element, comprising 11 dwellings in a mix of 2 & 3-bed rented and shared ownership houses.

The NHS Southern Derbyshire CCG seeks provision of £14,455 towards additional treatment/clinical rooms at Alvaston Medical Centre.

Severn Trent Water Ltd has no objection subject to condition.

The Contaminated Land Officer has no objection, noting the discharge of the condition on the previous consent has addressed any concerns.

The Highway Authority has no objection in principle but would seek amendments to the layout of phase 3 should the service road be proposed for adoption.

## **Responses to Publicity**

Aston on Trent Parish Council raises concerns over the height of the care village buildings, with local residents feeling they are too high and would overlook existing properties. They seek that any development is in keeping with the existing dwellings.

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

- ttt) the increase in population would decrease the attractiveness of Aston on Trent;
- uuu) elevations of the new buildings should be designed so that the privacy of existing gardens and houses is maintained;
- vvv) the height of the buildings are very high compared to regular houses;
- www) balconies and large bay windows would look directly into existing houses;
- xxx) loss of trees previously indicated to be retained.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H8 (Former Aston Hall Hospital, Aston on Trent), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4

(Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation)

- 1998 Local Plan (saved policies): H5 (Village Development), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features).

## **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

## **National Guidance**

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

## **Local Guidance**

- Housing Design & Layout SPG
- Section 106 Agreements – A Guide for Developers

## **Planning Considerations**

The principle of development for a care village and housing has been established for a number of years, most recently under the 2014 permission which has been partly implemented. The existing conditions and obligations will continue to apply to that part of the site irrespective of a decision made. Furthermore the principle of developing the site for residential purposes is now accepted under policy H8 of the Local Plan Part 1 with it proposed under Part 2 to include the site within the settlement confines. With this in mind, the main issues central to the determination of this application are:

- The conflict with the criteria of policy H8;
- Loss of affordable housing;
- Design and amenity considerations; and
- Update to technical matters.

## **Planning Assessment**

### The conflict with the criteria of policy H8

Policy H8 allocates the wider site for the provision of “around 74 dwellings”. The type of dwelling is not defined in the policy and one might argue that the care apartments proposed qualify as such, not offending the policy. However it is not that

straightforward. The housing needs for the District, as established in the Strategic Housing Market Assessment (SHMA), are based on conventional C3 use dwellinghouses, and not C2 'assisted care' dwellings. Those needs were examined by the Local Plan Inspector and considered acceptable to meet the objectively assessed need (OAN) for the Plan period, in line with paragraph 47 of the NPPF. It would be contrived to now argue that any need for C2 accommodation formed part of that OAN and thus the allocations made across Part 1 and Part 2 of the Local Plan caters for this need. The SHMA also pre-dated the latest PPG guidance which suggests separate consideration should be given to 'specialist' housing needs, which also supports the stance that a retrospective application of this point would be incorrect. As a result the proposed development would mean the reduction in housing provision on this site from 74 dwellings to 38.

Nevertheless this conflict with the policy is not considered to be fatal to the prospect of permission being granted. In line with section 38(6) consideration must be given to the other material considerations which might outweigh this conflict. There are a number of points to consider. Firstly, the loss of 36 dwellings from the rolling 5 year supply has a limited impact – just 0.03 of a year is lost. With 5.33 years in hand, this would not immediately place the Council in a precarious position when it comes to defending appeals. Such a loss could be made up through windfall sites coming forward at a rate greater than set out in the trajectory, for example the recently granted sites at Moira Road and Swadlincote Road, Woodville which provide an additional 72 dwellings not presently in the projections. With this in mind, the Council's 'real time' position is arguably better than the 5.33 years reported.

Secondly, there is a real need for the accommodation proposed. The applicant is clearly experiencing a high level of demand for the existing care accommodation under construction, to the degree that this application is being made. The SHMA also projects at least a 20% increase in population by age group by 2028 across the Housing Market Area (HMA). In the 80+ age group this is at least 60% change. There is therefore a real need to provide for accommodation over the Plan period, although there are no quantifiable figures at this time. Future updates to the SHMA will have to tackle this point given the more recent PPG on the matter. Nonetheless, the provision of 37 care apartments, which would facilitate elderly couples continuing to live together where one of them requires a more intensive level of care, would go some way to providing for this need at an early stage. This matter should be afforded significant weight in favour.

Thirdly, there are no sites presently allocated for C2 development in the Local Plan, meaning if this proposal were not located on an allocation or within an existing settlement, there is an argument that a greenfield site might need to be released. This point is tempered however by the lack of a quantifiable figure as to an OAN, since without such data it is not possible to justify the need for such release of land.

Fourthly, there are wider health and social care benefits that also must be recognised and given weight. Paragraph 50 of the NPPF advocates that in order to deliver a wide choice of high quality homes, a mix of housing should be planned for – based on current and future demographic trends and the needs of different groups which include older people and those with disabilities.

Finally, whilst the development would not add directly to the traditional housing stock, it would assist to some degree in releasing existing housing into the market. This in turn helps to alleviate the loss of new dwellings on site by 'freeing up' an equivalent number elsewhere, although there is no guarantee all prospective occupants of the apartments already live in the District.

#### Loss of affordable housing

The loss of the phase 3 housing element leads to a loss of the affordable proportion it previously offered. There is an identified need for more affordable housing across the District. Whilst it is already noted that affordable dwellings will only be provided as a fixed proportion of the eventual dwellings built, and as long as a registered provider is found; the applicant has made efforts to ensure the housing which is to be provided adheres to the 30% requirement. As a result the provision on phase 2 has been upped from 6 units to 11, recognising the balance is no longer to be provided within the wider site. The dwellings would still be provided as a mix of rented and intermediate housing, of which the split and specific tenure would be secured by modifications to the existing section 106 agreement. Efforts are already being made to secure a registered provider, but the applicant also seeks the inclusion of a cascade mechanism to provide a commuted sum in lieu of on-site provision should this prove difficult to secure. These matters raise no objection with the Strategic Housing Officer and hence there is no reason to resist these changes.

#### Design and amenity considerations

The concerns raised by residents are noted. Detailed consideration has been given to the orientation of windows and separation to existing dwellings, and full compliance with the SPG is achieved. Indeed it is comfortably exceeded in all cases and an existing landscape buffer exists between the site and those dwellings. Nevertheless the applicant has also removed balconies originally proposed in order to reduce the perception of overlooking. The design and separation of the care apartments also raises no concerns in respect of shading when compared to the extant permission.

The design of the care apartment complex, including the clubhouse, assimilates with the already consented and under construction care village. The same detailing and materiality is applied so to eventually provide a wholly cohesive scheme. Occupants would be afforded reasonable privacy and external amenity space, whilst parking provision is more than adequate considering the average mobility of the prospective occupants. The service road is not to be adopted but maintained by the applicant who, at the time of writing, is seeking to demonstrate that refuse vehicles could enter and leave in a forward gear.

The design and layout of the dwellings raises no concerns in the majority. Amended designs have secured active elevations to public spaces and appropriate surveillance of these areas and private parking bays, etc. Parking provision is considered to be appropriate in the round. Particular attention has been given to the separation of the affordable dwellings to the existing C2 care units to the north. Whilst the SPG does not strictly apply, it is noted that boundary treatments would provide reasonable levels of privacy to both existing and prospective occupants at

ground floor whilst the separation from the proposed first floor bedrooms to a communal lounge in each property is only marginally short. Given the communal nature of these lounges, there is not considered to be an issue here.

### Update to technical matters

Matters of heritage and archaeology have been appropriately addressed under the existing consent. Ecology has not altered to the degree that new mitigation is necessary. The same is the case in respect of drainage such that conditions can address this matter.

The update to the Transport Assessment has established that the effect on surrounding roads is likely to be less from this scheme than that already secured. This is simply because of a lower private vehicle ownership for those occupants of the care apartments and less trips off-site being envisaged given the access to on-site facilities within the wider care complex. Accordingly there is no concern in respect of impacts on the wider network and the layout of the site is sufficient to allow for safe and convenient access for all users.

As to planning obligations, the same types of contributions as previously secured for education, provision and access to recreational space and facilities, and woodland restoration and management would be carried forward under the modified legal agreement. Again this would only relate to the C3 dwellings so that the sums now garnered would be pro-rata. As to healthcare, whilst the response of the CCG is noted, the previous approach was to secure access to on-site domiciliary care services which would be provided within the care village. This remains appropriate and there is no reason why this approach should now change.

### Conclusion

Whilst the loss of traditional housing stock from the site is regrettable to the degree that it would lead to a slight reduction in the overall 5 year housing supply; this loss has already been made up by recent windfall permissions. Furthermore the provision of care apartments on site is likely to free up existing housing stock elsewhere in the District to accommodate new or growing families in the area. Moreover there is a clear and increasing need to address the housing needs for an aging population and this scheme would go some way to responding. The high quality and sustainable nature of the development is also of considerable merit, reducing the pressure to duplicate associated facilities on a site elsewhere in the District. With all other matters appropriately addressed, it is considered that the benefits arising outweigh the conflict with policy H8 such that permission should be granted.

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

### **Recommendation**

- A. That the committee delegate authority to the Planning Services Manager to secure a Deed of Variation to the original Section 106 Agreement to 'link' this

development to the obligations secured in the previous agreement and accommodate the proposed changes to the affordable housing;

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the plans and drawings specified in the Drawing Schedule dated 21 November 2016 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Prior to the construction of a building on a relevant phase precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall thereafter be used.  
Reason: To safeguard the appearance of the buildings and the locality generally.
4. Prior to the construction of a building on a relevant phase, large scale drawings to a minimum scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved drawings.  
Reason: In the interests of local distinctiveness, so to safeguard the appearance of the buildings and the locality generally.
5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.  
Reason: In the interests of the appearance of the buildings and the character of the area.
6. Notwithstanding any details submitted, precise details of the type, size and position of proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in any building. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless alternative details are first submitted to and approved in writing by the Local Planning Authority.

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

7. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless alternative details are first submitted to and approved in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in any building.

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

8. Gutters and downpipes shall have a black finish.

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

9. The fences and walls and the positions of associated pedestrian gates shall be completed in accordance with the approved details before the respective dwelling(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority; and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of such walls or fences.

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.

10. Pointing of the buildings, wherever applicable, shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

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

11. A sample panel of pointed brickwork/stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the buildings and the locality generally.

12. Prior to the construction of a road or hard surface on a relevant phase details, and if necessary samples, of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

Reason: In the interests of the appearance of the public realm and the locality generally.

13. Notwithstanding the approved plans, no development shall take place on a phase until details of trees to be retained and the measures for their protection have been first submitted to and approved in writing by the Local Planning Authority. The trees to be retained shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed.

Reason: To protect the trees/landscape areas from undue disturbance

14. Prior to the first occupation of a dwelling on a relevant phase a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details submitted shall include a timetable for the provision of such planting relative to the occupation of individual dwellings on that phase.

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

15. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of each relevant phase of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

16. A landscape management plan for each relevant phase, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority before the first occupation of a dwelling on that phase. The landscape management plan shall be implemented for the relevant phase as approved.

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

17. Before the first occupation of a dwelling on a phase details of a scheme for all external lighting for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be implemented in accordance with the approved scheme.

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

18. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

19. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- a. into the ground (infiltration);
- b. to a surface water body;
- c. to a surface water sewer, highway drain, or another drainage system;
- d. to a combined sewer.

Such details shall include drawings to show how the site will be drained, a timetable for implementation of the sustainable drainage systems, and details of how the system shall be managed and maintained. The drainage scheme shall be implemented in accordance with the approved timetable and thereafter managed and maintained in accordance with the approved details.

Reason: In the interests of flood protecting, noting that initial groundworks will need to incorporate adequate provision for drainage of the site.

20. No development shall take place on a phase until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the phase is first occupied.

Reason: In the interests of pollution control, noting that initial groundworks will need to accommodate appropriate drainage measures.

21. Prior to the first occupation of the care apartments hereby approved (Use Class C2), a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals (including a timetable), to promote travel by sustainable modes which are acceptable to the Local Planning Authority, and shall be implemented in accordance with the timetable set out therein. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the first occupation of that phase, to the Local Planning Authority for approval for a period of five years.

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

22. 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; plots 10, 11, 22, 28, 29, 31, 32, 33, 34 & 38 in phase 2 hereby permitted shall not be altered, enlarged or extended and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning

permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the health and stability of trees in the adjacent woodland.

23. Prior to the first occupation of a dwelling on a phase a landscape and biodiversity enhancement strategy, including a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved details and measures shall be implemented in accordance with the strategy.

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

24. Prior to the first occupation of each phase hereby approved, measures to minimise the risk of crime to meet the specific security needs of the relevant phase shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of designing out opportunities for crime and anti-social behaviour.

25. No development of any phase shall take place until details of the finished floor levels of the buildings hereby approved, and of the ground levels of the site relative to adjoining land levels for the relevant phase, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally, noting that initial groundworks would set the levels for the development.

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

Reason: To protect the amenities of nearby residents recognising that initial preparatory works could cause unacceptable impacts.

27. During the period of construction, no ground or construction works shall take place outside the following times: 0730-1900 hours Monday to Friday and 0730-1330 hours on Saturdays.

Reason: To protect the amenities of nearby residents.

28. Before development of a phase is commenced space shall be provided within the site curtilage for the storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of site operatives and visitors vehicles for the relevant phase, laid out in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The provision shall be maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety noting that initial works on site will still require adequate provision of this nature.

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

Reason: In the interests of highway safety.

30. No dwelling the subject of the application shall be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the approved drawings. The construction of the estate roads shall conform to the County Council's design guide, be constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

31. No dwelling, the subject of the application, shall be occupied until space has been provided within the site in accordance with the approved plans for the parking and manoeuvring of residents, visitors, service and delivery vehicles for the relevant dwelling(s), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

#### Informatives:

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

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

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (Tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.

Where development has been approved subject to the preparation and implementation of a Travel Plan, the applicant is obliged to submit the appropriate documentation to the Local Planning Authority well in advance of the development being taken into use. Advice regarding the content of Travel Plans may be obtained from the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the Transportation Section).

This permission is the subject of a deed of variation to an agreement under Section 106 of the Town and Country Planning Act 1990.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and seeking to resolve planning objections and issues. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

29/11/2016

**Item** 1.3

**Reg. No.** 9/2016/0479/U

**Applicant:**  
C/O Agent

**Agent:**  
Mr Neil Arbon  
DPDS Consulting Ltd  
3 Gleneagles House  
Vernon Gate  
Derby  
DE1 1UP

**Proposal:** CHANGE OF USE OF VACANT LAND TO AN AREA OF  
HARD STANDING FOR SKIP STORAGE (USE CLASS  
B8) ON LAND AT SK2828 2357 THE CASTLE WAY  
WILLINGTON DERBY

**Ward:** WILLINGTON & FINDERN

**Valid Date:** 23/05/2016

**Reason for committee determination**

The proposal is not strictly in conformity with the development plan.

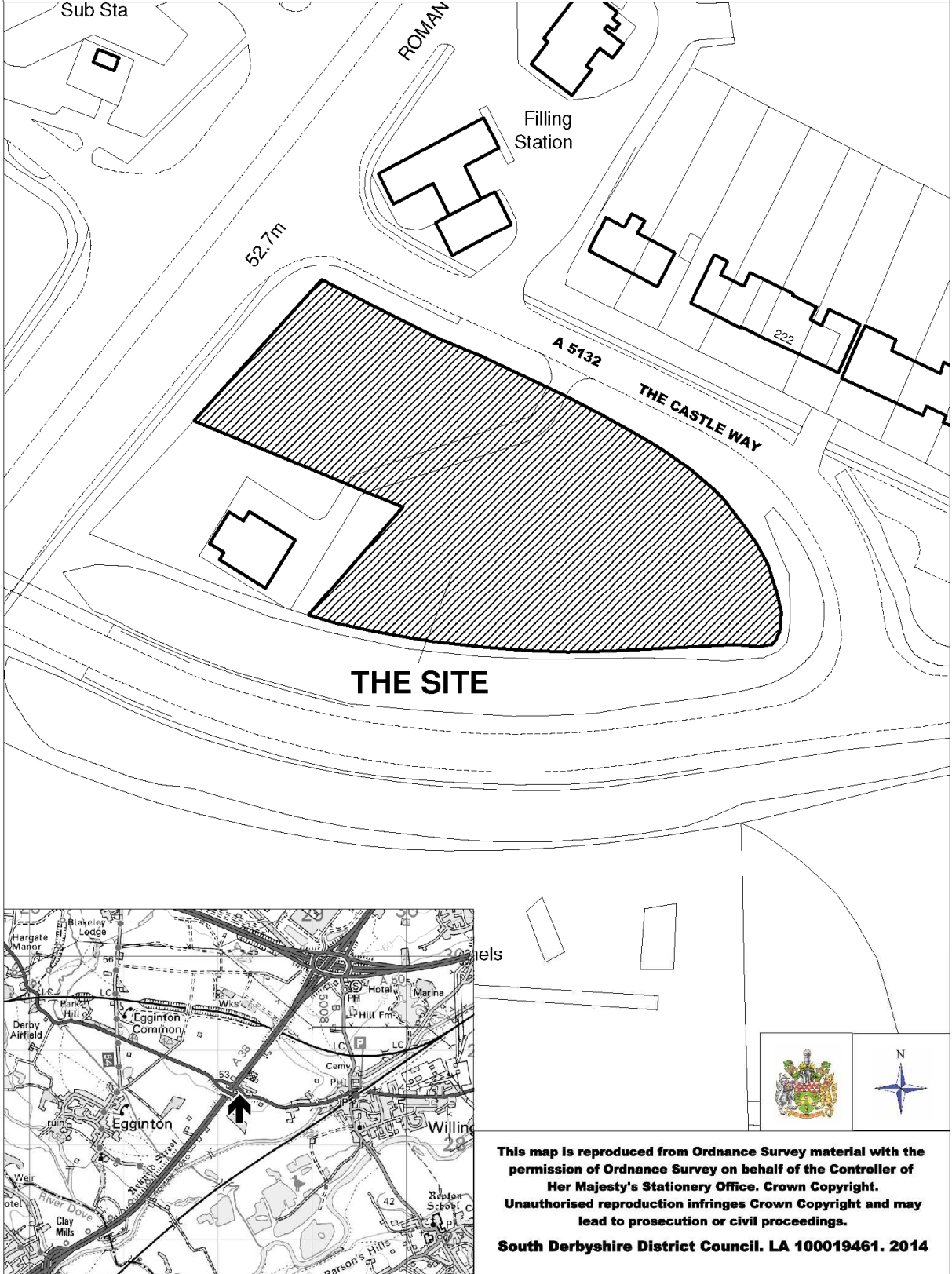
**Site Description**

The site is enclosed by the A5132, the A38 and its associated southbound slip road (The Castle Way). This road is fronted to the north by a number of detached dwellings and a petrol filling station located adjacent to the A38. There is a dense belt of trees to the south of the site which thins to the east close to the junction of The Castle Way and the A5132. To the north and west of the site is mature hedgerow on the boundary. An existing gated access to the site is located on The Castle Way and is already utilised by South Staffordshire Water who retain a pumping station in the south west corner of this plot of land.

**Proposal**

This full application seeks permission for the change of use of vacant land to an area of hardstanding for skip storage. The site is proposed as an additional location to store skips due to the seasonal fluctuations in the business. GD Golding Skip Hire operates out of their existing premises at Nicholson Way, Burton upon Trent but this site was identified as a suitable additional location due to its excellent links to the strategic highway network. Skips to be stored on site would vary in size ranging from a 2 yard 'Mini Skip' to a 40 yard 'Roll-On-Roll-Off-Skip'. The site would be used as

**9/2016/0479 - Land at SK2828 2357 The Castle Way, Willington, Derby  
DE65 6GY**



an overflow storage facility and would therefore be used infrequently by drivers to either deliver or pick up skips. There would be no buildings associated with this proposal but the use of the site would require the field to be covered in compacted stone over the existing field and the operation of the site would be limited to 8am to 5pm Monday to Friday and 8am to 12pm on Saturdays. The site would not operate on Sundays and public holidays.

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

A Planning Statement sets out the justification for the proposal having assessed the planning considerations of the proposal and having regard to the site history and planning policy context.

A Noise Survey assesses the key sound sources associated with the proposed development and concludes that the proposed scheme is likely to have a low impact at residential dwellings in the vicinity of the site. Recommendations for general measures have been set out in the report.

A Transport Technical Note concludes that, following an upgrade of the existing access in line with the Highway Authority's design guidance, the proposal will accommodate a safe access to facilitate the skip hire business and will not create a detrimental impact on the adjacent public highway.

An Ecology Assessment assesses the proposed impact the development would have on the site and concludes that, given the low ecological value of the site, the proposal would not result in the loss of any significant habitat.

### **Planning History**

**9/179/62** – Erection of a bungalow and garage – Refused 19/04/1979 and dismissed on appeal 7/12/1979

**9/1080/978** – Erection of a stable and tack room – Approved 19/12/1980

**9/787/326** – Siting of a mobile home – Refused 24/09/1987

**9/0390/1360** – Erection of a single storey building to provide a water supply booster station – Approved 11/05/1990

**9/2013/0093** - The change of use of land to use as residential caravan site for 4 gypsy families, each with two caravans including no more than one static mobile home, together with laying of hardstanding, landscaped bunds and the erection of two amenity buildings – refused 08/05/2013 and dismissed at appeal on 30/06/2014

**9/2015/0670** - Change of use to residential gypsy caravan site for 3 pitches along with erection of amenity buildings and acoustic fencing and creation of bunds and hardstanding - Refused 11/11/2015

## **Responses to Consultations**

Highways England has no objection to the proposal.

The Highway Authority raises no objection subject to conditions. A further response following a query from the applicant led to the Highway Authority reiterating its comments confirming that the gates proposed would need to be a minimum of 10m from the highway boundary and not just 10m from the carriageway in the interests of highway safety.

Derbyshire Wildlife Trust (DWT) initially objected to the proposal requesting additional information be provided. An Ecology Survey was undertaken and, although DWT did not agree with the Ecology Report's assessment of the site, believing the site to have a higher ecological value than suggested, it concluded that, although the proposal would result in a net loss of habitat, the area and proposals do not warrant an objection.

Environmental Health (EH) initially requested a noise assessment to be undertaken prior to determination of the application. A noise assessment was submitted and EH raised no further objection to the application subject to conditions relating to the inclusion of the recommendations set out in the Noise Survey report and no maintenance of skips to be undertaken on the site.

Derbyshire CC Flood Risk Management Team did not object stating that the proposal was less than 1ha in size and no record of historic incidences of flooding in the vicinity are held and it is unlikely that the site would be affected by surface water flooding.

Cllr Martin Ford requests that the site is solely used for skip storage and not for vehicle maintenance/storage or waste material.

## **Responses to Publicity**

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

- a) Industrial development incompatible with the area being predominantly residential;
- b) There will be considerable noise pollution from the dragging of metal skips around the site;
- c) Several residents in close proximity to the site work night shifts and this proposal will impact on their quality of life.
- d) Using rolled stone for the base material will cause considerable dust to be created when either lorries or skips are being moved.
- e) Concern over means of surface water drainage/stagnant water that could collect in the skips and create a foul smell.
- f) Loss of biodiversity.
- g) The proposal is very visible from the residential properties.
- h) Concern about the size of the vehicles entering and leaving the site.
- i) Will the skips be clean? If the skips have waste in them there will be litter and vermin issues.

- j) Location not considered as a sustainable location.
- k) The area is considered as residential not a commercial area.
- l) Traffic congestion occurs already, making access and egress from residents' driveways difficult - this will be exacerbated.
- m) Sensitive landscaping will not help the wildlife.
- n) Resident's point to a noise survey undertaken to resist the previous application for a gypsy site. This demonstrates it was unacceptable as a residential location. The noise levels are such that no additional noise should be added to that which the residents already endure.
- o) The speed at which traffic comes down the slip-road on the way to the A38 will cause an accident.
- p) The location of the access is dangerous being the slip-road to the A38 and access to the south bound service station.
- q) Before the A38 was widened and the flyover created this area was considered 'greenbelt'.
- r) Intermittent noise is harder to deal with than continuous noise.
- s) Previous applicants were told that the site could not be used for trade or to store equipment that might be used for business purposes.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2, S6, SD1, BNE1, BNE4, INF2
- 1998 Local Plan (saved policies): EV1, 9

### **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: BNE5,

### **National Guidance**

- National Planning Policy Framework (NPPF)

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 1 (Economy)

Chapter 3 (Supporting a prosperous rural economy)

Chapter 4 (Promoting sustainable transport)

Chapter 7 (Requiring good design)

Paras 186 & 187 (Decision-taking)

Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

- National Planning Policy Guidance (NPPG) ID30 (Noise) ID42 (Transport)
- Noise Policy Statement for England (NPSE)

## **Planning Considerations**

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

- Principle of development
- Impact on the character of the countryside
- Noise pollution
- Traffic and highway safety
- Other matters

## **Planning Assessment**

### Principle of Development

As Members will be aware planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Section 38(6) of the 2004 Act gives primacy to the Development Plan, stating that all applications must be considered against its provisions unless material considerations indicate otherwise. The NPPF repeatedly reasserts this primacy, acknowledging that the NPPF itself is a 'secondary' consideration to the Plan as a material consideration, albeit a particularly important one.

Both the Plan and NPPF seek to achieve sustainable development, where sustainability is measured against the Plan or the Framework as a whole. It is of particular note that the NPPF concedes within the core principles that development "should be genuinely plan-led" and this plan-led approach should provide "a high degree of predictability and efficiency" for assessment of applications. A departure from the Plan thus requires the material considerations to be of substantial weight.

The location of the site is outside any settlement boundary and therefore considered to be in open countryside. There are no landscape or heritage designations associated with the site. The proposal is therefore subject to the provisions of saved policy EV1. Whilst it does not meet criterion (i) or (ii) of EV1 in that it is neither essential to a rural based activity, nor unavoidable in the countryside, the site is surrounded by the highway network and adjacent to the water pumping station and this proposal would utilise an upgraded existing access. The agent's Planning Statement describes the area as 'urban in character' and, given the proximity to the A38 to the west, the service station and other commercial uses in the vicinity to the north and west in addition to the residential dwellings to the north east, this would be a more accurate description than open countryside for which EV1 applies. Given this urbanised setting and the proximity to the strategic highway network to this currently un-used site isolated from the wider countryside by urban character, it is considered that the proposal would have no adverse impacts on the character of the countryside, the landscape quality given the current and proposed landscaping, and visual amenity of the area.

The NPPF states at paragraph 19 that planning should encourage and not act as an impediment to sustainable growth. Paragraph 28 of the National Planning Policy Framework seeks to support economic growth in rural areas in order to create jobs and prosperity. Whilst this proposal would not directly create any new jobs in this location, it would support an existing business by creating a sustainable expansion of an existing business.

#### Impact on the character of the countryside

As addressed above, given the urbanised nature of the site, surrounded by roads and adjacent to a mix of uses, an argument to refuse this application would be difficult to sustain particularly given the development of the sister parcel of land on the western side of the A38. Indeed, the site has already been partially developed by the construction of the water pumping station. Whilst this proposal is substantially larger than the pumping station given the area of hardstanding being created, the existing and proposed landscaping would largely screen the development and the site has no designation in terms of landscape value. Footnote 9 of paragraph 14 of the NPPF indicates that specific policies in the NPPF will seek to protect valued landscape in the context of paragraph 109 but as the site has no designations, the substantive parts of para 14 are the presumption in favour of sustainable development. The proposal would also appear to meet part iii) of EV1 in that the character of the open countryside is protected by the retained and enhanced landscaping in accordance with Part B of EV1 to ensure that, should development be permitted in the countryside, it would create as little impact as practicable.

#### Noise Pollution

Possible noise disturbance to the adjacent dwellings led to Environmental Health to seek additional information in the form of a noise assessment to support this application. A noise assessment was submitted demonstrating any noise emanating from the proposal would have a low impact on the on the residential dwellings due to the background noise from the A38, the low level of visits from the skip hire company and the distance to the residential dwellings. Recommendations are set out in the noise assessment and should be followed to minimise the impact any noise-related activity. Environmental Health was satisfied that the proposal would not have significant adverse impact on the adjacent neighbours. A condition has been proposed to implement the recommendations of the noise assessment.

Some objectors referenced a noise assessment that had been paid for by residents undertaken during a previous application for use of the site as a gypsy site (9/2013/0093). This has not been assessed as the conclusions of that assessment related directly to the impact of external noise sources on the potential occupants of the site itself and not on noise being generated by the site. Objectors questioned the suitability of the site for any use due to the impact of the noise emanating from the A38. However, whilst this site may not be suitable for residential use, as was determined by the previous application, the site would seem to be well suited to the proposed use given the limited time staff would spend on the site.

The application proposed hours of opening as 08.00am to 17.00 Monday to Friday and 08.00 until 12.00 on Saturdays. No access trips will be undertaken on Sundays

or bank holidays. These hours of operation are supported by Environmental Health and would limit disturbance when the majority of residents are at home.

### Traffic and highway safety

The application is accompanied by a Transport Technical Note and neither Highways England nor the County Highway Authority considers the proposal unacceptable. The Agents planning statement states that the proposal seeks to relocate the existing access gates 10m from the carriageway edge but the County Highway Authority states that the gates should be 10m from the edge of the highway boundary. As this has no impact on the internal movements within the site, and no justification for positioning the gates closer to the highway other than providing details of vehicles used by the company have been provided, the County Highway Authority maintain that the proposal is acceptable subject to their original condition being implemented. The site is within reasonable walking distance from Willington though, as no employees will be based on site and no clients visiting, only limited trips will be made to the site as and when necessary to pick up and drop off skips to facilitate the main business which operates from Nicholson Way, Burton upon Trent. As such, Local Plan policy INF2 is satisfied.

### Other Matters

Representations have been received relating to the amount of dust that the proposal will generate. The proposal seeks to create a hardstanding for the skips using crushed stone. It is not envisaged that this method of surfacing will create large amounts of dust, given the limited amount of trips anticipated on a daily basis. No objection has been received from Environmental Health regarding this issue.

Other objections received raise the issue of surface water drainage and stagnant water. Whilst Derbyshire County Council Flood Risk Team were consulted, comments received state that as they have no record of flood incidences in the area it is unlikely the site would suffer from surface water flooding. The proposed crushed stone hard surfacing is permeable and intended to drain naturally. No additional non-permeable surfacing is proposed. This would appear to satisfy paragraph 103 of the NPPF.

Although Derbyshire Wildlife Trust raises no formal objection to the proposal following the submission of an ecology statement, DWT disagree with the findings of the statement, the site offering a higher ecological value than suggested and the site having habitats to support nesting birds. Whilst the proposal will mean the net loss of some habitats, the proposal includes retention of existing trees and hedgerows and DWT have requested the inclusion of a 3-5m buffer from the back of the hedgerow for wildflower mix of local provenance. The species mix is low maintenance and would provide an enhancement to the site in line with the aims of paragraph 118 of the NPPF.

### Summary

As outlined above, although the proposal would appear to fail the test of EV1, the site is considered to be in a sustainable location and supporting an existing local

business. The impact on the character of the area would seem to be low given the mix of existing uses in the vicinity and the proximity to the strategic highway network. Conditions on the number of trips and the hours of operation have been proposed in addition to the retention of, and enhancement to, the site boundary limiting the impact on neighbouring residents.

When considering the three dimensions of sustainable development is clear that there are positive social, economic and environmental benefits to this proposal through the sensitive design respecting neighbouring built environment, the securing of local jobs and supporting a strong, vibrant and healthy community and finally the use of a site constrained by urban features will benefit environmentally by the enhancement of the boundary hedgerows and landscape buffer.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing NO/C9881.16.700 received on 13 May 2016; and drawing NO/VC0034 Rev B, received on 03 November 2016; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. There shall be no maintenance or repair of skips or vehicles at any time on the site and no deliveries taken at or despatched from the site outside the following times nor at any time on Sundays, Bank or Public Holidays:  
08.00 until 17.00 Monday to Friday and  
08.00 until 12.00 on Saturday  
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
4. Before any other operations are commenced, the existing access to The Castle Way shall be modified in accordance with the application drawings, laid out, constructed with 10m radii and a minimum of 6.75m in width and provided with 2.4m x 70m visibility splays to the east and 2.4m x 60m visibility splays to the west, the area in advance of the sightlines being maintained clear of any

object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

5. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

6. Notwithstanding the submitted plans, the gates proposed on the application drawings shall be set back 10m from the highway boundary and shall open inwards only.

Reason: In the interests of highway safety.

7. The scheme shall be implemented in accordance with the recommendations from the Noise Assessment prepared by Vibrock Ltd dated 23 August 2016 and shall be implemented in full from the date the development is brought into use.

Reason: In the interests of neighbour amenity.

8. Based on the applicant's submitted information and the Noise Assessment submitted, the number of trips shall be limited to a maximum of 10 movements per working day on and off the site from commencement of the use.

Reason: In the interests of noise reduction and neighbour amenity.

9. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development. The landscaping scheme shall also include details of the 3-5m buffer along the existing and proposed hedgerows.

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

10. A landscape management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.

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

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

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

12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as the storage of skips for a skip hire business as described in the application documents and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.

#### Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The Highway Authority recommends that the first 10m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the site owner.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.

Derbyshire Wildlife Trust has requested a buffer at the rear of the boundary hedge of 3-5m in depth to have a wildflower mix of local provenance such as <http://www.naturescape.co.uk/acatalog/NCA1-Standard-Cornfield-Annuals-Mix-2500.html#SID=46>. The species mix is low maintenance and will provide an enhancement to the site.

**Item**            **1.4**

**Reg. No.**        **9/2016/0811/NO**

**Applicant:**  
**Mr Andrew Morgan**  
**National Trust**  
**Calke Abbey**  
**Main Street**  
**Ticknall**  
**Derby**  
**DE73 7LE**

**Agent:**  
**Mr Andrew Morgan**  
**National Trust**  
**Calke Abbey**  
**Main Street**  
**Ticknall**  
**Derby**  
**DE73 7LE**

**Proposal:**        **CONSTRUCTION OF A NEW SURFACED MULTI USE  
RECREATIONAL FAMILY CYCLE TRAIL COMPRISING A  
MAIN SECTION CONNECTING THE ENDS OF THE  
EXISTING TRAMWAY CYCLE ROUTE TO FORM A  
CIRCULAR TRAIL AND A SHORTCUT SECTION  
CONNECTING TO A MID-WAY POINT ON THE EXISTING  
CYCLE ROUTE AT CALKE ABBEY MAIN STREET  
TICKNALL DERBY**

**Ward:**            **REPTON**

**Valid Date:**     **03/08/2016**

**Reason for committee determination**

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

**Site Description**

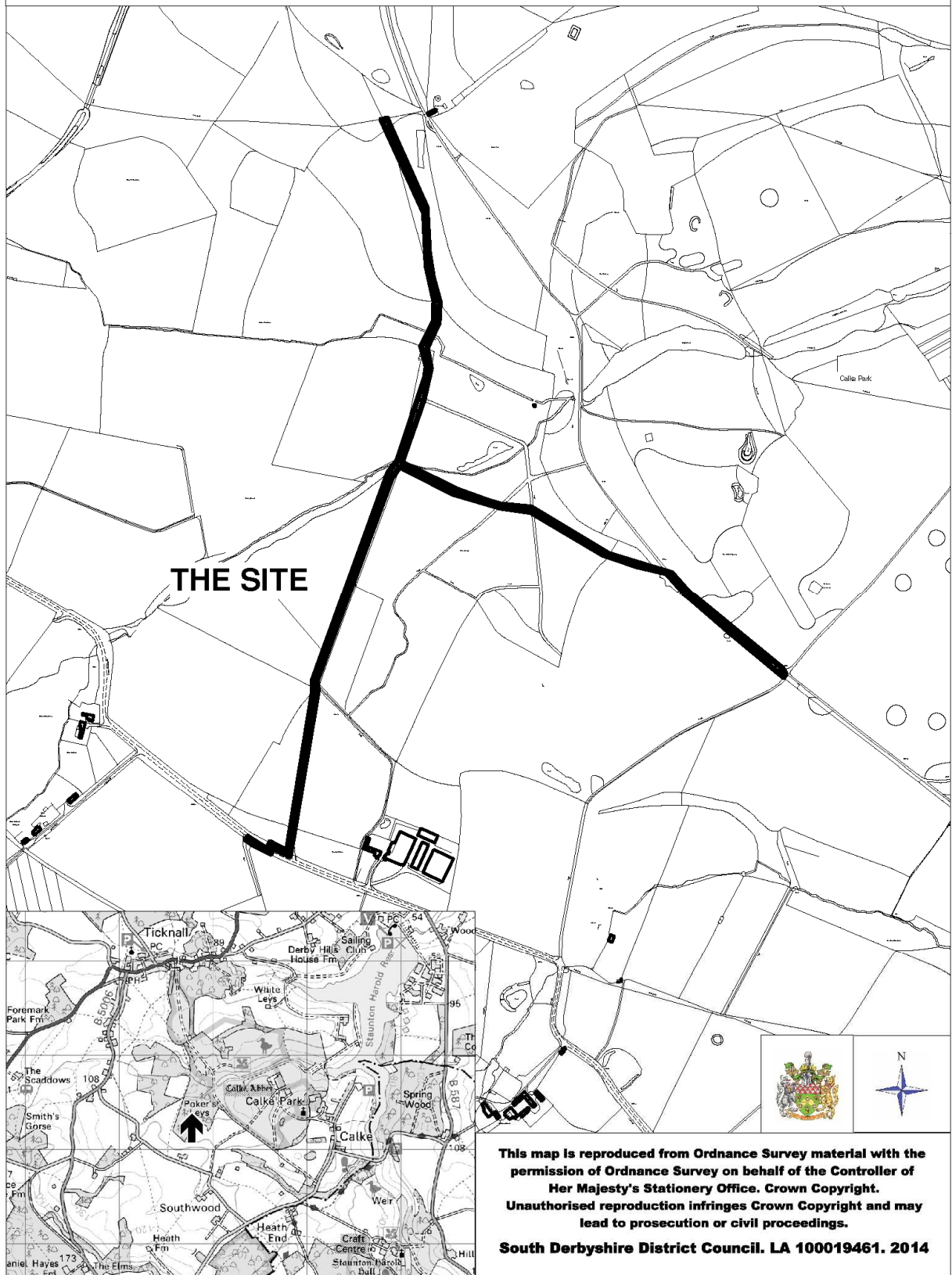
The application site is located within the Calke Abbey estate, which is located to the south of the village of Ticknall. The estate itself extends to over 2300 acres and contains the Grade I listed house, within a Grade II\* Registered Park and Garden. The estate also contains a SSSI and National Nature Reserve.

The proposals are confined to land within the ownership of the National Trust and located to the west of the main historic registered park.

**Proposal**

The application proposes the creation of an all weather circular family cycle route (green graded), which involves the construction of two new lengths of cycle track in

9/2016/0811 - Calke Abbey, Main Street, Ticknall, Derby DE73 7LE



order to link in to an existing cycle track on a tramway. The proposal would facilitate the provision of a large circular route and two alternative shorter routes. Planning permission is required for the creation of part of the cycle track where one does not currently exist in order to link the existing routes. The application includes the provision of a cycle crossing facility on Staunton Harold Lane.

The proposals would facilitate the provision of approximately 2900m of new cycle trail, of which 1905m would provide the connection between the ends of the Tramway route and 1025m would provide the shortcut link. The cycle route involves the creation of a dressed surface varying between 1.5 and 2.5m in width with variations to the construction techniques use dependent on the constraints identified. These vary between unconstrained areas where the track would be excavated and surface dressed with an infiltration drainage channel on either side, and areas within the root protection area of retained trees where the track would be raised above normal ground levels set on a geotextile surface in order to minimise any disturbance to existing tree roots.

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

The Design and Access Statement sets the context for the proposal, outlining the scheme itself and the benefits that the scheme envisages to;

- open up new areas of the estate to visitors, offering opportunities to visit and explore the wider estate and to learn about the wider aspects of Calke's estate beyond the boundaries of the historic parkland including the industrial past;
- help dissipate visitors into the wider and less visited parts of the estate helping to reduce visitor pressure in the heritage core and help conserve the unique character of Calke;
- provide a further recreational activity for visitors, encouraging physical activity and an opportunity to get closer to nature Encourage people to visit Calke Abbey by bicycle from surrounding areas by providing connections onto the rural road network.

An assessment of the planning policy context of the site is undertaken, in addition to an assessment of the site context and the route selection. The route has been designed to take in to account the historic and natural importance and character of Calke based on its significance. The statement incorporates an assessment of the alternative route options considered.

The supporting Archaeological Assessment confirms that the proposed cycle trail has been designed to minimise impacts on the natural and historic environment. The assessment notes that the cycle trail lies outside the registered park and garden taking a course though the wider Calke estate. The proposed route has been designed to 'miss' any areas of significant archaeological potential, with archaeological supervision proposed in areas where there may be underground remains identified by historic ridge and furrow (which appear to have been lost due to the management of woodland) and in areas where small sections of hedgerow are to be removed to facilitate widened access.

The Arboriculture Survey undertaken has assessed all of the trees along the proposed route, and categorised the trees according to their species, health and longevity. Whilst the indicative route of the cycle trail is known the detailed layout would be determined on site at the time of installation with the aim of minimising the number of trees impacted upon and ensuring that any significant trees are not detrimentally affected by the proposal.

A number of Ecological Surveys have been undertaken in support of the proposal, these include a Desk Study and Extended Phase 1 Habitat Survey. The surveys conclude that the Cycle paths should be carefully sited to avoid passing close to areas of known protected species and to stick as closely as possible to existing paths and desire lines.

The National Trust Cycle Trails Programme – Civil Engineering Design sets out 5 levels of specification for the proposed cycle trail construction, dependent on the site constraints, including where the trail passes identified tree root protection areas.

## **Planning History**

Various applications have been considered and approved throughout Calke. An application has recently been submitted under reference 9/2016/1095 for the erection of an outdoor 'Hub' and associated infrastructure including services, access roads, car parking, footpaths and drainage along with change of use of little town leys from agricultural land to car parking. The application is currently undergoing consultation and will be reported at a later date.

## **Responses to Consultations**

The County Highway Authority has no objection to the proposed scheme, subject to a condition relating to the provision of the crossing over Staunton Harold Lane being constructed to a suitable standard.

The County Archaeologist considers that the submitted information is sufficient to allow archaeological and historic environment issues to be understood. The potential archaeological issues have been addressed through the design and routing but in some areas archaeological supervision and monitoring is appropriate and a condition to secure this is recommended.

Historic England does not wish to offer any comment on the proposal and recommend that the application is determined in accordance with national and local policy guidance, and on the basis of the Councils specialist conservation advice.

The County Flood Risk Management Team has no comment on the application but does refer the applicant to their standing advice.

The National Forest Company supports the application, which provides enhancement to this key site within The National Forest.

Natural England considers that subject to the application being carried out in accordance with the details of the application then the SSSI does not represent a constraint in determining the application. The application may present opportunities which are beneficial to wildlife, such as bird and bat boxes.

The Peak and Northern Footpaths Society has no objection to the proposal and notes that the submission places due importance on safeguarding the interests of walkers using this path.

Derbyshire Wildlife Trust notes that the proposal has the potential to impact on the roots of the trees within the SSSI and is also likely to increase disturbance. The development would result in some loss of trees, hedgerows, grassland and scrub habitat. However, in the context of the site as a whole these changes in habitat extent would not significantly diminish the ecological value of the site and in places there could be some benefits. The impact on protected species appears to be low based on the ecology report and existing data on the distribution of protected species. Proposals for minimising and mitigating the impacts are presented in the ecology report, as well as the arboricultural plans illustrating protective fencing; these measures are considered to be sufficient to address the impacts of the proposed development.

## **Responses to Publicity**

Ticknall Parish Council objects to the application on the following grounds:

1. No provision has been made for adequate car parking for visitors to the cycle route;
2. The applicant should apply to DCC for a change of use from a public footpath to a cycle track.
3. No provision to alleviate the parking impact on Ticknall village;
4. Lack of parking on Staunton Lane, which is extremely narrow and there has been a recent increase in parking;
5. If passed then signage should be erected to encourage cyclists to give way to pedestrians.
6. The application should go to committee.

Four letters of objection have been received which raise the following issues:

- a) Please consider the 'choke point' at the entry as it is getting worse and is a risk for ambulances, police and fire services as they move along the A516.
- b) How will walkers and cyclists use the same tracks? This is a recipe for confrontation.
- c) Insufficient consideration has been given to the local community in terms of the impact extra numbers will generate.
- d) Do not need another cycle path as already have Sustrans and the National Forest Cycle path close by.
- e) More people coming to Calke will increase the pressure put on the village Hall car park in Ticknall as people park there instead of paying high costs to enter Calke. People attending an event at the village hall cannot park as it is full of walkers cars going into Calke.
- f) The National Trust was called upon to preserve the "Mystery of the Park" cutting trees down and putting in wider paths will destroy that.

- g) The National Trust have made such a mess of Calke already by leaving fallen trees where they fall "for the beetles" However this makes the place look like a tree graveyard and is killing off the wild flowers. Lord Curzon has stopped them at Kedleston so they should be stopped at Calke also.
- h) The National Trust should pay more attention to residents of Ticknall who live near their wooded areas, and who have asked on numerous occasions for them to manage the trees near their properties which are diseased, blocking light, or a danger to property.
- i) There will be a significant impact on the local wildlife, especially the wetland area. Encouraging more people to enter this area will have a detrimental effect on wildlife.
- j) The building will not be as sympathetic to its surroundings as originally planned. The learning facility originally in the plans has been abandoned leaving on the commercial aspects, the café and cycle hire area.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); INF6 (Community Facilities); INF7 (Green Infrastructure); INF8 (The National Forest); INF9 (Open Space, Sport and Recreation); INF10 (Tourism Development)
- 1998 Local Plan (saved policies): EV1 (Development in the Countryside); EV9 (Protection of Trees and Woodland); EV11 (Sites and Features of Natural History Interest); EV12 (Conservation Areas); EV13 (Listed or Other Buildings of Architectural or Historic Importance); EV14 (Archaeological and Heritage Features); EV15 (Historic Parks and Gardens).

## **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows); BNE5 (Development in the Countryside).

## **National Guidance**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

## **Planning Considerations**

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

- Principle of development;
- Historic environment and landscape;

- Ecology and biodiversity; and
- Highway safety.

## **Planning Assessment**

### Principle of development

Policy S1 of the 2016 Local Plan Part 1 (LP1) sets the sustainable growth strategy for the District, which is explicit in its support and encouragement for enabling healthy lifestyles through increased leisure pursuits, the provision of open space and providing greater accessibility for residents. Indeed policy INF9 highlights the fact that the current provision of open space, sports and recreation facilities in the District is not sufficient to meet local needs and seeks to encourage the creation of new and enhanced facilities. Within the National Forest the provision of leisure opportunities for local communities and visitors is supported by policy INF8.

Policy INF2 is explicit in its support for the provision of new and improved cycling facilities and states that:

*“The Council will work in partnership with County Councils, neighbouring local authorities, the National Forest Company, charitable organisations, landowners and developers to secure the expansion, improvement and protection of walking and cycling networks, including public rights of way, cycle routes, greenways and supporting infrastructure. Routes should be coherent, direct, continuous, safe, secure and attractive and should contribute to the wider green infrastructure network wherever possible.”*

The proposed cycle trail would be a further enhancement of the existing leisure provision at Calke and would encourage further use of this key site within the National Forest. In addition, the proposal would help to encourage and facilitate healthy lifestyles for both existing residents and visitors a key component of the strategy for the District. In principle therefore the proposed works are considered to be acceptable, supporting one of the main strategies for the District.

### Historic environment and landscape

Many established footpaths and tracks run across the wider Calke estate, the majority of the proposed new route border the Grade II\* Registered Park and Garden with a small section being within the park. Clearly there are significant listed heritage assets in the park and gardens, the setting of which needs to be considered. The cycle track would at its northern end fall within the immediate setting of the Middle Lodge, which is located along the estates main entrance road.

Due to the landscaped and wooded nature of the Calke estate the majority of the route is screened by the existing topography and established planting, which is particularly true of the proposed track closest to the Middle Lodge. The route follows the contours of the landscape, using established routes where possible, and keeping to field boundaries which help to screen the route behind the mix of walls, hedges and fencing. The new sections of the route have been chosen and designed to reduce the impact of the track on the rural character of the estate, and the listed

assets. In order to further minimise any harm to these heritage assets it is considered appropriate to condition the surfacing and materials use for the cycle track.

From a conservation perspective the proposed works are not considered to cause detrimental harm to the significance of the nearby listed assets and would not diminish the immediate or wider setting of these assets. It is therefore considered that the proposed works would cause 'less than substantial' harm to the Registered Park & Garden as a whole as well as 'less than substantial' harm to the setting of the these heritage assets. When this small degree of harm is weighed against the public benefits achieved through the provision of the improved cycle trail and increasing public access to the wider estate the proposal is considered to be acceptable from a heritage perspective.

In terms of archaeology the proposals have addressed the impact of the proposed route on any known archaeological areas of the estate through the proposed design and routing, however, it is considered appropriate in some areas that archaeological supervision and monitoring of the groundworks (a watching brief) is appropriate to record any features encountered, and a condition to this effect is recommended.

### Ecology and biodiversity

The proposed cycle track extends partly through the Calke Park SSSI, two Local Wildlife Sites, and the Historic Wood Pasture and Parkland of Calke Abbey. The track is proposed through areas of woodland within which there is potential for the route to impact on the roots of these trees.

The development would result in some loss of trees, hedgerows, grassland and scrub habitat. However, in the context of the site as a whole these changes in habitat extent would not significantly diminish the ecological value of the site and in places there could be some benefits. The impact on protected species is considered to be low based on the ecology report and existing data on the distribution of protected species at Calke. In order to ensure that there are no impacts on protected species a construction environmental management plan is considered to be appropriate and to be secured by condition.

The establishment of a multi-user cycle trail through the site would inevitably increase the level of human disturbance, and this may have a slight impact on the breeding activities of birds and possibly use of the site by mammals. However, these impacts are considered to be limited to the immediate area adjacent to the trail and would be highly variable depending upon the season. This view is shared by and the development is supported by Derbyshire Wildlife Trust.

In terms of the arboricultural impacts of the development it is acknowledged that the cycle track would result in the loss of a small number of trees along the proposed route. The trails are proposed to weave in-between existing trees and exploit the areas topography, where possible being located outside the root protection areas of existing trees. Where this is not possible the track would be constructed in a 'no dig' construction (as shown in the table above). It is considered by officers that these measures are appropriate to protect retained trees root systems. As part of the

detailed design and precise routing of the track following visits to the site and along the route of the track with the Council's Tree Officer it is considered appropriate to identify the exact route of part of the cycle track on-site in order to minimise and agree to any loss of trees and the ensure that the route has a minimal impact.

### Highway safety

In terms of the proposed cycle track, the application includes the provision of a cycle crossing on Staunton Harold Lane which has been designed to provide an element of forward visibility between riders and walkers travelling in opposite directions and also make for an improved angle of approach to the public highway.

The comments received from the Parish Council and a number of local residents regarding the impact of the proposal on Ticknall village and the current parking concerns are noted. However, the proposals which are for the provision of sections of new cycle tracks only are not considered to result in a demonstrable increase in the number of visitors to Calke or the likelihood of vehicles parking within the village especially when considering the existing cycling facilities within the estate. In any event as part of considering the highway safety implications of the proposal, the potential for increased on-street parking in Ticknall is considered by the County Highway Authority to be inconvenience rather than an issue of highway safety and as such is not considered to be a material consideration that would weigh significantly against the proposal.

### Conclusions

It is considered that the proposals would comply with the general thrust of local planning policy and national guidance which aims to create a healthier District, with overriding support for new developments which support leisure activities, health and well-being. The proposed cycle trails are considered to make a valuable contribution to the provision of multi-functional and accessible green infrastructure in the District, which weigh heavily in favour of the proposal.

Any harm to the historic environment and biodiversity as a result of the proposal is considered to be less than substantial, and can be suitably mitigated, with programmes and management plans required to ensure this before works can commence.

The proposal is considered to represent sustainable development which provides for the social needs of existing residents and visitors to the District, the environmental impacts of the development are not considered to be significant or substantial and where identified can be suitably mitigated. In addition, the proposal would continue to support the economic role that Calke plays within the District.

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

### **Recommendation**

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

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

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

2. The development hereby permitted shall be carried out in accordance with drawing numbers CA/TCR/01, 02, 03, 04, 05, 06, 07 and 08; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. No development shall take place until a written scheme of investigation (WSI) for archaeological work has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:

The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.

The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

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

4. No development shall take place (including demolition, ground works and vegetation clearance) until a tree management plan (TMP) has been submitted to and approved in writing by the local planning authority. The TMP shall incorporate the following;

a) A tree protection plan identifying where protective fencing is to be installed;

b) A tree removal plan identifying which trees are to be removed along the route;

c) Identification of the precise locations of the different types of cycle track construction (as outlined within the National Trust Cycle Trails Programme - Civil Engineering Design) along the full cycle track route.

The approved TMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

5. No development shall take place (including demolition, ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following incorporating the measures outlined within the ecology report;
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of ""biodiversity protection/buffer zones"" to include ponds, hedgerows, woodland, trees other habitat as required.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction.
  - d) The location and timing of sensitive works to avoid harm to habitats and species.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as required).
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the preservation of the species.

6. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the cycle track surfacing material has been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the locality generally.

7. Prior to the new pedestrian/cycle route being taken into use, the access onto and crossing on Staunton Lane shall be laid out in accordance with application drawing CA/TRC/19 rev A. The route shall have an internal radius of 5m and abut the highway boundary at 90°. The route within highway limits shall be constructed as footway in accordance with Derbyshire County Council's specifications and be provided with visibility sightlines of 2.5m x 100m on the south eastern side and 2.5m x 65m on the north west sides. The area forward of the sightlines shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

8. No works to or demolition of buildings or structures or removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this

period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: In the interests of the preservation of the species.

#### Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The County Flood Risk Team advises:

- Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
- Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
- The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
- Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
- Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway

Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

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

The CEMP for the scheme shall include Reasonable Avoidance Measures (RAMs) in order to avoid harm to any reptiles, and this will include the following actions;

- a) Grassland and ruderal vegetation areas will be directionally strimmed in two stages to allow any reptiles (or amphibians) present to move out of the working area naturally, under the supervision of an ecologist (ECoW). All vegetation will be removed from the working area to prevent potential areas of refuge being created for reptiles (amphibians) to shelter in; and
- b) Suitable refugia, for example log or rubble piles, will be dismantled carefully by hand under the supervision of a suitably experience ecologist.

29/11/2016

**Item**            **1.5**

**Reg. No.**        **9/2015/1215/OS**

**Applicant:**  
**Mr & Mrs Cartwright & Craner**  
**C/O Agent**

**Agent:**  
**Mr Christopher Lindley**  
**DPDS Consulting Group**  
**3 Gleneagles House**  
**Vernon Gate**  
**Derby**  
**DE1 1UP**

**Proposal:**        **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 14 DWELLINGS ON LAND AT SK3220 4756 WOODVILLE ROAD HARTSHORNE SWADLINCOTE**

**Ward:**            **WOODVILLE**

**Valid Date:**     **04/01/2016**

**Reason for committee determination**

This case is presented to Committee as the application is for a major development that has attracted more than two objections.

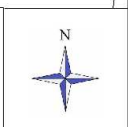
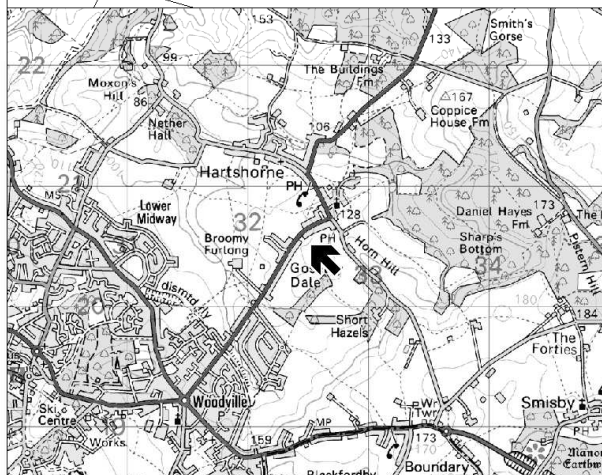
**Site Description**

The site is comprised of two paddocks situated to the east of Woodville Road located, in part, between existing residential dwellings which themselves front Woodville Road to the south-west (No 67) and north (No 53) of the site. A stable building is situated to the immediate north-east of the site with arable fields to the east and a horse paddock located to the immediate south of the site with arable fields beyond.

The site extends to approximately 0.95 ha in area, and slopes in a north westerly direction from the agricultural fields downwards towards Woodville Road with a difference in ground level of approximately 3m. Mature hedgerows form a large part of the site boundaries, particularly to Woodville Road with post and rail fencing enclosing the remainder.

Hartshorne Public Footpath No3 runs across the agricultural field to the east of the site.

**9/2015/1215 - Land at SK 3220 4756 Woodville Road, Hartshorne, Swadlincote (DE11 7ET)**



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

## **Proposal**

The application has been submitted in outline with details of the proposed site access submitted for determination at this stage. The layout, scale, appearance and landscaping matters are reserved for future approval.

The scheme is proposed as a cross-subsidy residential development, with 7 of the 14 units proposed as affordable housing (including two one bedroom bungalows). Vehicular and pedestrian access is proposed from Woodville Road. The application is accompanied by an indicative plan, which illustrates a central road through the site with dwellings sited fronting Woodville Road and the new access road. The plan also indicates the provision of two single storey dwellings to the eastern part of the site with an area of open space/woodland planting beyond up to the eastern boundary of the site, and the retention of existing hedgerows along the site boundaries (including Woodville Road).

## **Applicant's supporting information**

The Design and Access Statement provides a concise description of the key issues, a policy assessment, design assessment and technical considerations. Although it is noted that the document was prepared and submitted at a time when the 2016 Local Plan Part 1 was yet to be adopted, the policy assessment undertaken is therefore somewhat out of date.

In concluding the document notes that the proposal is set within a sustainable location, unconstrained by any sensitive landscape or heritage designations. The proposal is considered to fully comply with the aims and objectives of policies which encourage sustainable modes of transport. Significant weight should be attached to the sustainable location of the site and the economic benefits of developing the site for housing.

The limited landscape and environmental harm is not considered to constitute significant harm in the context of the NPPF and does not significantly and demonstrably outweigh the benefits of the proposal.

A Supporting Letter has been submitted updating the applicant's position and revising the proposed scheme to that being considered at this committee. The letter sets the case for the approval of this development in so far as it would provide a "majority" of its development to meet an identified housing need particularly for older people and thus the proposal is considered to comply with the requirements of policies H1, H20 and H21 which support the scale and nature of the proposed development i.e the site is adjacent to the settlement boundary and is under 15 dwellings. The proposal is considered to meet a recognised housing need in line with the most up to date evidence and the SHMA. The revised illustrative layout identifies a 'logical development boundary' to the east of the built development and confirms that easternmost plots would not exceed 1 storey. When balanced with the economic benefits of delivering houses, the social benefits of delivering a high percentage of affordable housing to meet local needs, and the limited environmental harm to the landscape the proposal is considered to represent sustainable development.

The Flood Risk Assessment highlights that the site lies within Flood Zone 1 and therefore has an annual probability of flooding of less than 1 in 1,000 years, and the site is not located within a Groundwater Source Protection Zone. The most likely sources of flooding are considered to be from the on-site drainage system and overland flows from the east. However, the impact on the site will be minimised through appropriate ground investigation. The development of previously permeable areas will inevitably result in the generation of additional storm runoff, which will need to be mitigated to ensure any site drainage does not exceed greenfield runoff rates. The requirement for drainage mitigation in the form of SUDS where feasible is acknowledged.

The Ecological Appraisal concludes that the closest statutory designated site is a SSSI, Carver's Rock located approximately 1.9km from the site. Given its geographical isolation from the site and the small-scale nature of the proposals it is considered unlikely that the SSSI will be impacted by the development.

The closest non-statutory site, Fox Covert, which is located approximately 550m from the site, and the closest Local Wildlife Site Ladyfields Plantain is located 625m from the site, neither of these sites are considered to be adversely affected by the proposed development.

Given the lack of aquatic habitats within the site and the geographical separation of the nearest known breeding pond, great crested newts are considered highly unlikely to occur within the site.

As the initial appraisal identified the potential for bats, herptofauna and nesting birds an additional protected species survey of the site was undertaken. No bats were recorded during the surveys, but as the hedgerows provide foraging and commuting potential these should be retained. A survey of the site found that it is highly unlikely that the proposal would have any impact on herptofauna species within the wider area. No evidence of nesting birds was found within the site although the hedgerows continue to provide suitable habitats.

The majority of the site is comprised of species-poor semi-improved grassland that is of low botanical value. The important features of the site are the hedgerows along the boundaries of the site, which with the exception of the access point will be retained as part of the development, and will need to be protected during construction. It is recommended that new hedgerows are planted around the site's boundaries in place of the existing fence lines to improve connectivity between retained habitats within the site and the wider countryside and to provide new habitats for nesting birds and foraging and commuting bats. Any proposed vegetation clearance works would need to be programmed to be completed outside of the nesting bird season.

The Access Feasibility Study, and Speed Survey identified that 3 incidents have been recorded in the wider vicinity of the proposed access along Woodville Road. Based on this, it is considered unlikely that the proposed access point and predicted traffic generated from the site would exacerbate any existing issues or give rise to significant new safety issues. A trip generation analysis was undertaken using TRICS, which suggests a peak trip generation of 9 vehicles during AM and PM peak

hours. Due to the low increase of trip generation that this development will attract, it is considered to have minimal impact to the surrounding network. A visibility splay of 65m with a 2.4m set back can be achieved, which following the speed survey results measuring an average speed of less than 38mph on Woodville Road is considered appropriate. It is considered that a suitable access arrangement can be provided to serve the new residential development off Woodville Road. This access would not give rise to any safety or operational issues in terms of highways and transportation.

The Community Consultation Statement outlined that the agents have engaged with the Parish Council to ensure that where possible, the views and needs of the local residents are reflected within the design of the proposed development.

## **Planning History**

9/2006/1104: The erection of a dwelling on land adjoining 43 Woodville Road.  
Approved December 2006

9/2009/0525: Demolition of existing garage and the erection of extension. Widening of driveway and extension of existing domestic garden curtilage at 53 Woodville Road. Refused August 2009.

9/2009/1076: The erection of a dwelling adjacent to 45 Woodville Road. Approved February 2010.

9/2010/0025: Erection of two detached dwellings on land to the rear of 43 Woodville Road. Approved May 2010.

## **Responses to Consultations**

The Strategic Housing Officer has commented on the revised proposal for the provision of 50% of the dwellings on site as affordable dwellings. The site is located within the Swadlincote sub-market area of the district, which includes the Wards of Church Gresley, Hartshorne and Ticknall, Linton, Midway, Newhall and Stanton, Seales, Swadlincote, and Woodville. As at 25<sup>th</sup> October 2016 there were 1006 households on the Choice Based Letting SDDC Housing Register, of these 34 have listed Hartshorne as a priority and 641 have listed the surrounding parish. The need for the provision of single storey accommodation is acknowledged, with the retired population (65+) forecast to rise significantly by 2031. The requested housing mix for the 7 affordable units on the site is as follows in order to meet the needs of the District; For rent 2 one bedroom bungalows; 1 two bed house; 1 three bed house; and 1 4 bed house. For intermediate occupation; 1 two bed house; and 1 three bed house. The Officer considers that having regard to the SHMA and the Council's housing register the proposal will provide affordable homes that meet a clearly identified need within this locality.

The County Highway Authority notes that the speed limit on Woodville Road changes from 30mph to 40mph at the location of the proposed access. A speed survey has been undertaken in order to determine the required visibility splays for the site, with the speed survey demonstrating that the average speed is under 38mph the provision of visibility splays of 2.4m x 65m are considered to be

achievable and proposed as part of the development. As a result of this there are no objections on highway grounds subject to the conditions detailed below, relating to the site access, layout of the site access road, and parking provision within the site.

Derbyshire County Council (Planning Policy) comments that the site is located within the normal areas of Hartshorne CE (Controlled) Primary School and Granville Sports College. The development of the site is expected to generate an additional 3 primary and 2 secondary aged school pupils. Taking in to account current pupil numbers, projections and committed developments each of these schools would have sufficient capacity within the next five years and therefore no educational contributions are required.

Derbyshire County Council (as Lead Local Flood Authority) considers that insufficient priority has been given to the provision of SUDS within the site, and that it is necessary to condition the submission of a detailed drainage design to ensure that an appropriate drainage solution is provided.

The Council's Engineering Technician comments that the site slopes towards the highway and that surface water lies in the south easterly corner on the plot for many weeks of the year.

The Environment Agency has no comments on the application and refer the Council to the advice from the Lead Local Flood Authority.

Severn Trent Water has no objection to the proposed development subject to the inclusion of a drainage condition on any permission.

Derbyshire Wildlife Trust comment that there are not any designated site of nature conservation or species conservation associated with the site. There are records of Great Crested Newts at Hartshorne School however, as Woodville Road divides the pond from the site, this represents a barrier to any movement of newts towards the site. The surveys undertaken identify that the site represents habitats of low nature conservation value but the site boundaries represent some features that would support wildlife. In addition, all hedgerows should be retained and incorporated within the development design together with additional hedgerow and tree planting as part of a landscaping scheme. Impacts should be avoided on breeding birds, and lighting will need to be sensitively designed to avoid impacts on foraging and commuting bats, due to potential reptiles and badgers being present conditions to survey the site before works commence are recommended.

The National Forest Company expects 20% of the site to accommodate woodland planning and landscaping, which equates to 0.19ha. A condition is requested to this effect which specifically requires woodland planting on the eastern part of the site.

The NHS Southern Derbyshire CCG has requested a contribution of £5,356 towards enhancing local surgery facilities to ensure that additional patient numbers can be accommodated.

## **Responses to Publicity**

A total of 12 letters / e-mails of objection have been revised responding to the application (including following re-consultation), including Hartshorne Parish Council and the Hartshorne Village Residents Association. The responses raise the following concerns:

- a) Where would the new children go to school? The Primary school is at full capacity;
- b) This area of land forms a strategic gap in this area of Hartshorne village;
- c) Hartshorne has an ageing population and there appears to be no provision of suitable accommodation such as bungalows;
- d) The Council's Conservation Officer has identified the Edwardian Villas at 51/53 Woodville Road as making a positive contribution towards the villages character this development would affect the setting and ambiance of these villas;
- e) Whilst the site is not Green Belt the field separates the end of the development on Woodville Road from the 'core' of the village. If allowed there would be a continuous line of development all the way from the Goseley Estate.
- f) The Council identified this area of land as Housing Site S0245 and considered it to be unsuitable as it is a strategic gap. The development is not in keeping with the scale and character of development;
- g) Concern regarding highway safety and the creation of a new access on to Woodville Road, a blind bend where there have been many accidents.
- h) Increased risk of accidents due to increased traffic flow through Hartshorne village;
- i) The proposal is contrary to Policy EV8 of the Local Plan as the site contributes to local character, and should be designated as local green space under policy BNE9 of the Local Plan Part 2;
- j) The increased risk of flooding of existing properties, the existing site floods and has done for 15 years as there is an existing outflow from an underground pipe within the field;
- k) Overshadowing of existing gardens;
- l) Overlooking of existing properties and gardens;
- m) The technical crashes recorded does not represent the true situation, or consider the use of Woodville Road by emergency services.
- n) Planning permission was refused for a small extension in to this field due to the 'unwarranted loss of an undeveloped green field gap which forms part of the villages countryside setting and provides clear distinction between Hartshorne and the adjacent ribbon development'
- o) Regardless of the new proposal the site must be retained as a strategic demarcation point separating the settlement on Woodville Road with the start of Hartshorne village proper;
- p) The existing water supply across the field would need to be reinstated.

In addition, two letters have been received which raise issues in respect of the recent flooding during 14/15<sup>th</sup> June 2016 and include pictures of the field having flooded.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), and EV9 (Protection of Trees and Woodland).

### **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development); H23 (Non-Strategic Housing Allocations); BNE5 (Development in the Countryside); and BNE8 (Trees, Woodland and Hedgerows).

### **National Guidance**

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

### **Local Guidance**

- Housing Design and Layout Supplementary Planning Guidance (SPG)
- Section 106 Agreements – A Guide for Developers

### **Planning Considerations**

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

- The Principle of development;
- Landscape and design considerations;
- Highways Impacts;
- Ecology; and
- Flood Risk.

### **Planning Assessment**

#### Principle of development

The application site lies outside the settlement boundary for Hartshorne, and as such lies within the open countryside. However, the site is located directly adjacent to the

southern extent of the settlement boundary for Hartshorne as identified within the 1998 Local Plan (1998 LP), and to the north of the existing linear mainly interwar development which extends along Woodville Road from the Clock roundabout . The settlement boundary is not proposed to be extended to include with site within the emerging Local Plan Part 2 (LP2).

The 2016 Local Plan Part 1 (LP1) sets the strategy for development within the District, and Policies S1 and S2 highlight the importance of the presumption in favour of sustainable development as required by paragraph 197 of the NPPF and to take into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. This approach is designed to enable the District to meet its objectively assessed housing need over the plan period.

Policy H1 of the LP1 considers Hartshorne as a Local Service Village where development sites outside the settlement boundary are not supported unless they are adjacent to the settlement boundary and constitute an exception or cross subsidy site (i.e. an affordable dwelling led scheme) of not greater than 15 dwellings. This exception provides for a 'built in' allowance for boosting affordable housing where it is most needed in accordance with a threshold (i.e. 15 dwellings based on the characteristic of the scale of the settlement). The current proposal meets the tests contained in Policy H1 in so far as the site is adjacent to the Hartshorne settlement boundary and the proposal is for 14 dwellings.

Consideration of the tests outlined in policy H1 requires cross reference to Policy H21, which relates specifically to affordable housing. The policy states:

*“Rural exception sites that are kept in perpetuity as affordable housing for local people, will be permitted adjoining existing...Local Service Villages..., the number of dwellings to be in accordance with Policy H1 as an exceptional circumstance to normal policy where:*

- i) The homes meet a clearly identified local need;*
- ii) the development provides a majority of affordable homes;*
- iii) the need cannot reasonably be met within the development limits of the village concerned or the submarket area the site falls within as detailed in the SHMA; and*
- iv) the development is in a scale relative to the settlement size and facilities available particularly public transport and does not have any unacceptable adverse impacts on the natural and built environment”.*

The amended scheme must therefore satisfy all the above criteria in order to accord with the Development Plan. To not do so means it does not benefit from the exception to the usual approach to housing distribution, i.e. as an allocation within the plan or development within the settlement boundary.

The homes must meet a clearly identified local need; The Strategic Housing Market Assessment (SHMA) is clear in that there is an identified need for affordable housing across the District. Feedback from the Strategic Housing Officer, which considers the proposal against the SHMA and the Council's Housing Register identifies a clear need for affordable homes in particular for the 65+ age group which is forecast to rise significantly over the plan period (up to 2031). In terms of the Council's Housing

Register (containing a total of 1006 households at 25/10/16) 34 households have listed Hartshorne as a priority area, with 641 listing a surrounding Parish. As there is no up to date Local Housing Needs Study for Hartshorne this approach can therefore only provide an indication of need. However, this is the most up to date relevant information available, and the Strategic Housing Officer considers that this provides for a clear indication of need within the locality, which is further aided though the proposal including the provision of 2 bungalows, a need which is seldom met though new affordable housing developments.

The proposal is for 50% affordable homes to be provided on the site, which is not strictly providing for a majority of affordable homes. However, on a scheme of the scale proposed, coupled with the provision of single storey dwellings to meet an acknowledged housing need, the benefit of providing these dwellings and the equal footing of the proposal is considered to tip the balance in favour of the proposal from this policy point.

The next test requires that the need cannot reasonably be met within the development limits of the village concerned or the sub-market area the site falls within, as detailed in the SHMA. There are no reasonable alternatives within the settlement confines of Hartshorne to deliver the affordable housing need for the village, indeed the neither the LP1 nor emerging LP2 allocate any sites within or adjacent to Hartshorne that would provide for affordable dwellings. In addition, any new or recently approved developments within or adjacent to the settlement are not of a scale or likely to be of a scale that would require the provision of affordable dwellings. Hartshorne falls within the Swadlincote sub-market area which includes the Wards of Church Gresley, Hartshorne and Ticknall, Linton, Midway, Newhall and Stanton, Seales, Swadlincote, and Woodville. Within this area the Strategic Housing Officer estimates the housing need for new affordable dwellings in this area is 206 dwellings per year, so the provision of 7 affordable dwellings would contribute towards meeting this high level of need within the District.

As the proposal is considered to be of a scale appropriate for Hartshorne (as a Local Service Village) identified within policy H1 the scale of the proposal is also considered to be appropriate when considered against criteria iv of policy H21. The assessment as to whether any unacceptable adverse impacts on the natural and built environment arise are considered below.

In conclusion, whilst the proposal is located outside the settlement boundary for Hartshorne the development proposed is considered to be well related to the existing settlement, would provide a significant proportion of affordable housing to meet an acknowledged housing need that is unlikely to be delivered through any alternative sites in Hartshorne, and the scale of the development is considered to be appropriate for Hartshorne as a Local Service Village.

#### Landscape / Design Considerations

The site itself carries no statutory or local landscape designations, and is not identified within the local plan as an area of local green space but the site is within the open countryside, undeveloped and greenfield.

The site is an agricultural field, with mature hedging to the majority of its boundaries although it is bound by existing housing to the north and south. The site is visible from two main areas, Woodville Road and the existing public footpath (Hartshorne FP No3) which runs diagonally across the field to the east. Whilst the application has been submitted in outline the application is supported by an indicative masterplan which indicates the provision of a cul-de-sac extending from Woodville Road in to the field providing built development on either side of the access road extending up the slope.

From Woodville Road the site frontage is currently characterised by a mature and somewhat unkempt hedgerow, which provides a small break in the linear and sprawling built form which extends from the Clock Island along Woodville Road. The site to some extent helps to define the start (and end) of the village of Hartshorne, both from Woodville Road and the countryside to the east, where the roofscapes of the existing development on Woodville Road (to the south of the site) and the village is split by the separation this undeveloped site provides. The experience of separation between Hartshorne and Woodville is more substantial and recognisable on the opposite side of Woodville Road which is less developed and provides for views across the small valley.

The proposal would enclose this small gap in the built form on the Woodville Road frontage, which would cause some harm to the landscape and the character and appearance of the area. There is capacity to retain an area of landscaping to the site frontage which would help to mitigate the loss of this gap, such that there would be a less prominent change to the character of Woodville Road. The concerns received relating to the development enclosing a gap which defiles the village of Hartshorne, are noted and do have some weight. This issue stands to be measured in the balance with the potential advantages of the development examined later.

From the public footpath to the east, the roofscapes of the existing development on Woodville Road (to the south of the site) and the recent housing developments to the north are visible and provide the existing skyline when viewed from the countryside beyond. In acknowledging the level differences and the visibility of the site from the open countryside and public footpath to the east the built form is drawn away from the eastern limits of the ownership, to provide an area of public open space which would incorporate an area of woodland planting to comply with the requirements of the National Forest. In addition, the indicative layout provides for the two dwellings to the eastern are of the site to be single storey, which would result in only the roofscape of the development being visible from the east, which coupled with the woodland planting would reduce the effect and visibility of the development from the east.

Clearly there are some adverse impact on the character and appearance of the area, which are as a result of developing this greenfield site in the open countryside. These impacts can to some extent be mitigated though the retention of the existing landscaping to the site frontage, the provision of a woodland (suitably designed to comply with the National Forest planting guidelines) to the east and a restriction on the scale of the dwellings to the east to single storey.

### Highways Impacts

Vehicular and pedestrian access to the site is proposed from Woodville Road, the speed limit in this location changes from 40mph to 30mph as Woodville Road enters Hartshorne.

It should be noted that the only fixed matter in relation to the access element of the scheme is the point of access in to the site, as the footpaths and roads detailed within the submitted masterplan are indicative only and full details would need to be agreed at the future reserved matters stage. This would include ensuring that the roads and footways are designed to include appropriate surfaces suitable for all users, ensuring appropriate inclusive access that is safe and attractive.

As detailed above an access feasibility study and speed survey have been undertaken in support of the application. The expected traffic generated by the proposed development has been predicted using the TRICS database, which compares the site against a number of similar development sites that have been surveyed. The database predicts the total am and pm peak movements, which for a development of 14 dwellings would result in 9 additional two-way vehicular trips in the am and pm peak periods. This level of traffic increase is considered to have a negligible and certainly not a significant adverse impact on the local highway network.

Following the undertaking of a speed survey the average speed at the site has been demonstrated to be under 38mph, and as such visibility splays of 2.4m by 65m are considered to be sufficient. These visibility splays can be achieved at the site, and without the need to remove a significant amount of the existing hedge fronting Woodville Road, save for the access itself.

Overall the site is considered to be a sustainable and accessible location, approximately 750m from the nearest convenience store, with the larger retail stores of Woodville approximately 1.6km to the south, existing bus stops are within a one minute walk of the site which provide access to Derby and Swadlincote.

Whilst no parking details have been submitted and indeed these would not be required until the detailed application stage the development would be required to comply with reasonable standards of a minimum of 2 spaces per dwelling.

In general, suitable access in to and around the site, pedestrian connectivity and appropriate parking levels are considered to be achievable within the site. However, the full details of which would be secured through the consideration of the reserved matters applications which will be key to ensuring an appropriate development is provided in highway safety terms in order to comply with the provisions of the NPPF and Policies S6 and INF2 of the 2016 Local Plan Part 1.

### Ecology

A Preliminary Ecological Appraisal and Protected Species Appraisal have been undertaken for the site and surrounding area, which identified that there are no statutory or local sites of nature conservation value which would be affected by the proposed development.

The habitats within the site are considered to be of low nature conservation value only, with species present being common and typical of their type. The site is considered to have limited value for protected species, and no reptiles, bats or other protected species were recorded during surveys of the site, although as a precautionary measure conditions are recommended to restrict works outside sensitive times of the year, with reasonable avoidance measures undertaken to avoid any potential impacts of protected species.

The main features of value within the site are the existing hedgerows to the site boundaries. These provide foraging and commuting routes for bats, potential nesting sites for birds and some botanical interest. These features would be retained and replaced along the site boundaries where absent. As recommended by Derbyshire Wildlife Trust, a Landscape and Ecological Management Plan would need to be provided for the site to manage the proposed area of open space and the hedgerows. Overall it is considered, subject to the conditions, that the impact of the development on ecology would be acceptable and comply with Policy BNE3 of the Local Plan 2016 and the relevant protected species and habitats legislation.

### Flood Risk

Due to the site size a Flood Risk Assessment has been submitted in support of the proposal, but due to the site location within Flood Zone 1 there are not considered to be any significant flood risk issues associated with fluvial flooding, but pluvial drainage need to be considered.

It is proposed that peak discharge of surface water would be attenuated through the use of Sustainable Drainage Systems (SUDS) within the site. The drainage strategy would consider the use and provision of sustainable surface water drainage features on the site (e.g. ground level swales, retention basins / pond) the details of which would need to be submitted during detailed design stage, as requested the Lead Local Flood Authority (Derbyshire County Council). The Environment Agency and Severn Trent Water have no objections to the proposal subject to conditions and the comments of the Lead Local Flood Authority i.e. the body responsible for pluvial (surface water) flooding.

It is noted that a number of residents have raised concerns due to surface water flooding on the site particularly during the recent heavy rainfall in June. It is a common misconception that new development would increase the risk of flooding when in reality rather than increase surface water runoff it is likely that the development of the site would help to control surface water flooding on the site through on-site retention. Surface water from the site itself would be captured by on-site features (yet to be determined) and/or only allowed to discharge to an agreed outfall at a controlled rate likely to be a greenfield rate of 5 litres per second.

Therefore subject to conditions the development would comply within the requirements of Policies SD1 and SD2 of the Local Plan 2016 Part 1 and the NPPF in terms of drainage and water management.

### Other Matters

In terms of residential amenity, the site is closely bound to the western parts of the northern and southern boundaries by existing dwellings, and as such the impact of developing the site on the domestic curtilages of these dwellings needs to be considered. The current albeit indicative layout shows dwellings close to these boundaries which would provide domestic gardens abutting these boundaries. These gardens at their shortest are unlikely to be more than 5m in depth which if proposed with first floor windows in the rear elevations could lead to an unacceptable level of overlooking of private rear gardens that currently benefit from little direct overlooking.

Were the development to be considered acceptable in principle or in landscape terms, the detailed layout will need to ensure that occupiers of those dwellings would not be unduly affected by the proposal, and the interrelationship between the proposed dwellings those existing residents would be properly assessed at a detailed application stage as required by Policies SD1 and BNE 1 of the 2016 Local Plan Part 1.

In consideration of infrastructure impacts and mitigation, the affordable housing provision is discussed above, and the provision of 7 units in the following mix would be secured through a legal agreement; 2 x One bed bungalow; 2 x Two bed house; 2 x Three bed house; and 1 x Four bed house. As detailed above with the consultation response received from the County, Hartshorne Primary School and Granville Sports College are projected to have sufficient spaces to accommodate the likely increase in pupil numbers as a result of the development. The proposal would have impacts on existing services and facilities, of which some would be beneficial through additional inward investment in the local economy which includes contributions towards outdoor and built sports facilities, the precise amounts would need to be determined at the detailed stage as the overall dwelling mix (with the exception of the affordable dwellings is unknown at this stage). However, healthcare capacity is of concern and the CCG considers that a number of GP practices are likely to be affected by the development, and as such a contribution towards local healthcare provision is sought. In summary, the contributions would be:

- Healthcare: £5,326
- Outdoor sports facilities: £220 per person
- Built facilities: £122 per person

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.

### Conclusion

In considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is evident that there are social and economic benefits of the scheme through the provision of new housing, and the provision of 50% of the dwellings proposed as affordable is of significant value and benefit to the scheme, which is further enhanced by the provision of two bungalows within the scheme, which would aid in the proposal providing dwellings that meet an

acknowledged housing need and this social dimension weights significantly in favour of the development.

In terms of the environmental impact of the proposal, there is some harm to the landscape and the character and appearance of the area. However, when weighed in the balance with the social benefits that would accrue from the scheme, the level of harm to the landscape is not considered to outweigh the social benefits that the scheme would bring about. The surrounding highway network is considered to have sufficient capacity to accommodate the proposed development, suitable visibility splays are achievable and subject to suitably designed internal roads and parking provision the proposal is not considered to have any significant detrimental impacts on the safe and efficient operation of the immediate and local highway network. The site has been the subject of detailed ecological surveys, and a Flood Risk Assessment which consider the development of the site to be acceptable (subject to conditions) so as to comply with the relevant habits and protected species legislation, and to ensure that suitable drainage of the site can be provided.

Overall the public benefits arising from the proposal in terms of the provision of affordable housing is considered to outweigh the environmental harm identified on the landscape and overall, the harm arising from the development is not considered to significantly and demonstrably outweigh the social and economic benefits brought about by the development.

### **Recommendation**

A. That the Committee delegates authority to the Planning Services Manager to conclude the Section 106 Agreement/Unilateral Undertaking in pursuit of the provisions and contributions as set out in the planning assessment above;

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

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
  
(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters:
  - (a) appearance;
  - (b) landscaping;
  - (c) layout; and

(d) scale.

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

3. Details submitted under condition 2 shall include the proposed finished floor levels to the dwellings, including existing and proposed surrounding land levels relative to the dwellings, as well as proposed boundary treatments and surfacing materials, and the retention of the landscaping buffer to Woodville Road.

Reason: To ensure that a detailed assessment of the impact of the dwellings on the visual and neighbouring amenities of the area can be undertaken.

4. The layout of the site, including the proposed open space and the storey heights of any of the dwellings hereby approved shall comply with the Initial Illustrative Layout (With Storey Heights) Drawing number C9817.16.702.

Reason: In order to define the parameters for scale of the dwellings, in the interests of the character and appearance of the locality.

5. No development shall commence until all retained hedgerows have been fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the hedgerows from undue disturbance, and to safeguard against protected species, recognising the initial stages of development could cause unacceptable impacts.

6. No development shall commence until a Landscape and Ecological Management Plan has been submitted to and approved by the Local Planning Authority. Temporary mitigation provisions shall be implemented prior to any works commencing on site and thereafter retained throughout the course of construction. Permanent mitigation and enhancement measures shall be implemented prior to first occupation of the dwelling(s) hereby approved and thereafter maintained as such.

Reason: In the interests of safeguarding protected species and providing an overall net biodiversity enhancement, recognising the initial stages of development could cause unacceptable impacts.

7. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

8. No development shall be commenced on site until a temporary access into the site to Woodville Road for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall have a minimum width of 5.5m, 10m radii, constructed to base level and be provided with visibility sightlines of 2.4m x 65m in each direction. The area forward of the sightlines shall be cleared and maintained throughout the period of construction clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety, recognising that initial works to clear and prepare the site could give rise to unacceptable impacts.

9. No development shall commence until a detailed lighting strategy has been submitted to and approved in writing by the LPA. Such approved measures will be implemented in full.

In the interests of ensuring that the development does not detrimentally impact upon protected species.

10. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority in advance of full planning consent being granted.

11. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- a. into the ground (infiltration);
- b. to a surface water body;
- c. to a surface water sewer, highway drain, or another drainage system;
- d. to a combined sewer.

12. No work shall take place on the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the

details which have been agreed before the development is first brought into use.

Reason: In the interests of pollution control.

13. No construction of a dwelling shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- i. no less than 50% of housing (7 dwellings) shall be Affordable of which 72% (5 dwellings) shall be social rented and/or affordable rented and 28% (2 dwellings) shall be intermediate housing; 'pepper-potted' across the whole site in clusters comprising of no more than 10 affordable homes, with a cluster including no more than 6 flats;
  - ii. no less than 2 of the affordable dwellings shall be single storey bungalows as identified on the Initial Illustrative Layout (With Storey Heights) Drawing number C9817.16.702.;
  - ii. no more than 80% of Market Housing units shall be occupied before completion and transfer of the Affordable Housing Units;
  - iii. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
  - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
  - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

The affordable housing shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it.

Reason: To ensure the provision of affordable housing within the mix of housing delivered, pursuant to the Development Plan.

14. Prior to the first occupation of any dwelling on the site, the new access shall be laid out in accordance with application drawing, constructed to base level, drained and lit in accordance with Derbyshire County Council's specification for adoptable roads. The access shall have a minimum width of 5.5m, be provided with 2 x 2m footways, 6m radii and visibility splays of 2.4m x 65m in each direction. The area forward of the sightlines shall be level, form part of the public highway, be constructed as footway and not part of any plot or other sub-division of the site.

Reason: In the interests of highway safety.

15. Prior to the first occupation of any dwelling, space shall be provided within each plot curtilage for the parking of two vehicles and maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is counted as a parking space, the internal dimensions should not be less than 3m x 6m.

Reason: In the interests of highway safety.

16. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

17. Notwithstanding the submitted information, a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6Cs Design Guide and the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government.

Reason: In the interests of highway safety.

18. The gradient of the new estate street accesses shall not exceed 1:30 for the first 10m into the site from the highway boundary and 1:20 thereafter.

Reason: In the interests of highway safety.

19. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: In the interests of protected species.

#### Informatives:

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning issues and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

This permission is the subject of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990.

The Landscape and Ecological Management Plan (LEMP) for the scheme shall include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan. Including details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.
- h) Ongoing monitoring and remedial measures. Including setting out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
- i) Reasonable Avoidance Measures (RAMs) will be implemented to avoid harm to any reptiles, and this will include the following actions;  
Scrub and ruderal vegetation areas will be directionally strimmed in two stages to allow any reptiles present to move out of the working area naturally. All vegetation will be removed from the working area to prevent potential areas of refuge being created for reptiles to shelter in;  
Suitable refugia, for example log or rubble piles, will be dismantled carefully by hand under the supervision of a suitably experience ecologist; and  
Although no compensation measures are statutorily required any development can be seen as an opportunity to increase biodiversity locally. General compensation measures, such as construction of artificial hibernacula could improve habitats on site for use by reptiles and amphibians.
- j) Measures to protect badgers (and other mammals) from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and

b) open pipework greater than 200 mm outside diameter being blanked (capped) off at the end of each working day.

The applicant is advised to note that the County Council do not adopt any private SUDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SUDS maintenance once the development is completed. The SUDS scheme shall incorporate the following;

1. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems: Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration

rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.

Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.

Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

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

Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.

Where reasonable practicable demonstrate that the runoff volume of the site reflects the requirements of S5.

2. Information to indicate that the surface water can, in principle, be disposed of sustainably in compliance with Approved Document H of the Building Regulations 2000. In particular, the following information should be provided to the Local Planning Authority for review:

Soakaway/ground investigation conducted in compliance BRE Digest 365 methodology or similar submitted to demonstrate the feasibility of infiltration alone to manage surface water on the site.

If infiltration is found not to be feasible, an alternative option for surface water disposal should be proposed. In order of preference this should be to:

- i. an adjacent watercourse with detailed evidence of the feasibility of this option given the existing site constraints,
- ii. a surface water public sewer, with appropriate evidence that the relevant Water and Sewerage Company deems this acceptable, or
- iii. a combined public sewer, with appropriate evidence that the relevant Water and Sewerage Company deems this acceptable.

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

29/11/2016

**Item**                **1.6**

**Reg. No.**           **9/2016/0925/TC**

**Applicant:**  
**MR D SHEPHERD**  
**11 High Street**  
**Ticknall**  
**Derby**  
**DE73 7JH**

**Agent:**  
**Mr Ian Earl**  
**Melbourne Tree Services Ltd**  
**Derby Hills Farm**  
**Broadstone Lane**  
**Ticknall**  
**Derby**  
**DE73 7LD**

**Proposal:**           **THE FELLING AND PRUNING OF TREES AT 11 HIGH STREET TICKNALL DERBY**

**Ward:**                **REPTON**

**Valid Date:**        **05/09/2016**

**Reason for committee determination**

The item is presented to Committee as a Councillor is the applicant.

**Site Description**

A residential property with a large area of its curtilage facing a main thoroughfare through Ticknall village.

**Proposal**

The felling and pruning of numerous trees around the residential application property.

**Applicant's supporting information**

None.

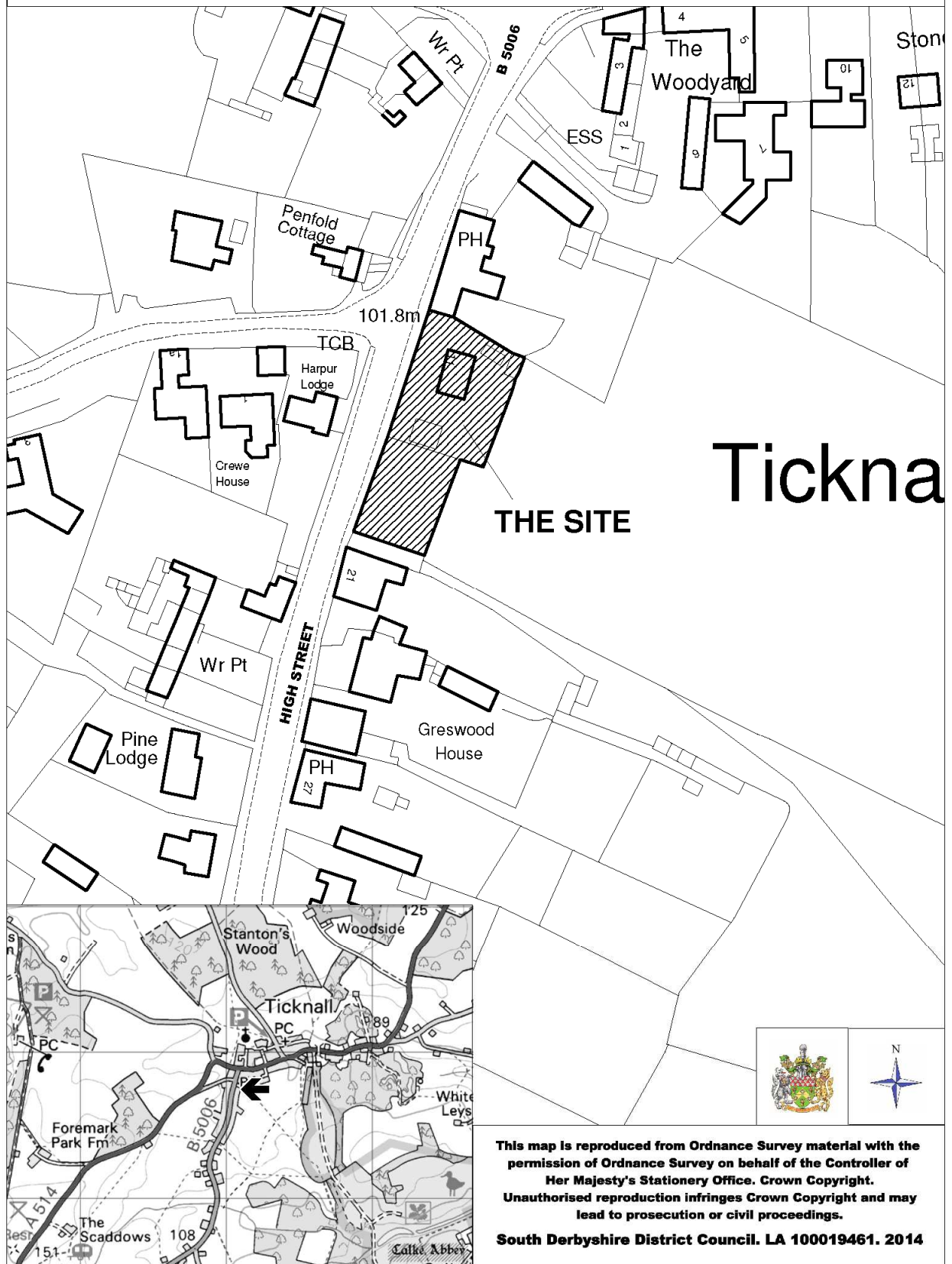
**Planning History**

None.

**Responses to Consultations**

The tree officer is of the opinion that all works proposed are necessary and suitable.

9/2016/0925 - 11 High Street, Ticknall, Derby DE73 7JH



## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: BNE4

## **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: BNE8

## **National Guidance**

- National Planning Policy Framework (NPPF) paragraph 109.

## **Local Guidance**

- SPG 'Trees and Development'.

## **Planning Considerations**

The main issue central to the determination of this application is whether the works to the trees are justified and in accord with existing and emerging policy.

## **Planning Assessment**

The works proposed are in the interests of safety and sound tree management and are therefore considered acceptable.

## **Recommendation**

**No Objection** to the works subject to the following informatives:

Informatives:

If this work is not carried out within two years of giving notice, a further notice is required.

You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

29/11/2016

**Item**            **2.1**

**Reg. No.**        **9/2016/0972/TP**

**Applicant:**  
**Mr Daniel Ward**  
**52 Cheal Close**  
**Shardlow**  
**Derby**  
**DE72 2DY**

**Agent:**  
**Mr Daniel Ward**  
**52 Cheal Close**  
**Shardlow**  
**Derby**  
**DE72 2DY**

**Proposal:**        **THE FELLING OF A TREE COVERED BY SOUTH  
DERBYSHIRE DISTRICT COUNCIL TREE  
PRESERVATION ORDER NUMBER 336 AT 52 CHEAL  
CLOSE SHARDLOW DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **28/09/2016**

**Reason for committee determination**

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

**Site Description**

The tree is in the rear garden of a mid three storey residential property. This terrace of houses has the trees in their rear gardens protected by Tree Preservation Order 366. The tree is a Norway Maple (purple variety).

**Proposal**

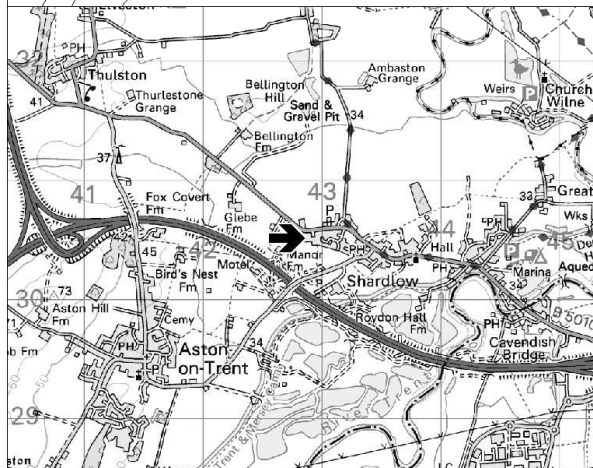
To fell the tree protected by South Derbyshire Tree Preservation Order 336.

**Applicant's supporting information**

The applicant states that the tree is becoming a nuisance to themselves and their neighbours by:

- being too large,
- dominating their landscaped garden,
- increasing bird dropping mess,
- being a health hazard from falling branches

9/2016/0972 - 52 Cheal Close, Shardlow, Derby DE72 2DY



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South Derbyshire District Council. LA 100019461. 2014

- blocking light to the house and garden.

## **Planning History**

9/2016/0587 - Proposed felling of the same tree - Refused

## **Responses to Consultations**

Shardlow Parish Council has no objection.

## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: BNE4
- Saved Policy, Local Plan 1998: EV9.

## **Emerging Development Plan Policies**

The relevant policies are:

- Draft Local Plan Part 2: BNE7.

## **National Guidance**

- National Planning Policy Framework (NPPF) 17, 118, 109.
- National Planning Practice Guidance (NPPG) ID36.

## **Planning Considerations**

The main issue central to the determination of this application is whether the liveability issues outweigh the amenity of the tree.

## **Planning Assessment**

The tree is a tall and rather perpendicular Maple that has one main bole and three large scaffolds supporting its high but well balanced canopy. The tree is in fair/good condition with no major defects and it provides a high level of amenity.

It is agreed that the tree is large for the relatively small garden but the tree was protected due to it being an attractive feature within the landscape. In the absence of evidence that supports the loss of the tree due to the likelihood of catastrophic collapse then this Council is unable to support the loss of the tree.

Pruning works to reduce the crown will not solve the light related liveability issue and would in fact exacerbate it due to the resultant reactive growth.

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

## **Recommendation**

**REFUSE** permission for the following reason:

1. The Maple tree is a prominent feature in the public realm and makes a significant contribution to the attractiveness of the local area. It is protected by way of a Tree Preservation Order (TPO366) and as such its importance has already been recognised. In the absence of any evidence supporting the potential for the failure of the tree, the size of the tree in relation to the relatively small garden, bird droppings and potential damage to a landscaped garden is not sufficient to support the loss of the tree. Saved Policy EV9 of the Local Plan 1998 seeks to protect specimen trees of value to their landscape setting. That preference is equally supported by emerging policy BNE7 of the Draft Local Plan Part 2 and paragraphs 17 and 118 of the National Planning Policy Framework. Despite the reasons given to support its removal, the proposed felling is considered to be unacceptable and contrary to the aforementioned policies and guidance.

## **Informatives:**

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.