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Our Ref  
Your Ref

Date: 15 August 2022

Dear Councillor,

### **Planning Committee**

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 23 August 2022 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

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

**Conservative Group**

Councillors Bridgen, Brown, Dawson, Haines, Redfern and Smith.

**Non-Grouped**

Councillor Wheelton



## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 197**
- 5** DEED OF VARIATION - CHURCH STREET **198 - 215**

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

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

# **Report of the Strategic Director (Service Delivery)**

## **Section 1: Planning Applications**

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>
<a href="#">DMOT/2021/0754</a>	<a href="#">1.1</a>	Swadlincote	Swadlincote	6
<a href="#">DMPA/2022/0836</a>	<a href="#">1.2</a>	Bretby	Repton	13
<a href="#">DMPA/2022/0838</a>	<a href="#">1.3</a>	Bretby	Repton	26
<a href="#">DMPA/2021/1687</a>	<a href="#">1.4</a>	Boulton Moor	Aston	39
<a href="#">DMPA/2021/1362</a>	<a href="#">1.5</a>	Boulton Moor	Aston	94
<a href="#">DMPA/2021/1378</a>	<a href="#">1.6</a>	Castle Gresley and Linton	Church Gresley	110
<a href="#">DMPA/2022/0883</a>	<a href="#">1.7</a>	Melbourne	Melbourne	128
<a href="#">DMPA/2022/0360</a>	<a href="#">1.8</a>	Woodville	Woodville	136
<a href="#">DMPA/2022/0037</a>	<a href="#">1.9</a>	Hilton	Hilton	151
<a href="#">DMPA/2022/0412</a>	<a href="#">1.10</a>	Walton-on-Trent	Seales	160
<a href="#">DMPA/2021/1431 &amp;</a>				
<a href="#">DMPA/2021/1505</a>	<a href="#">1.11</a>	Repton	Repton	167
<a href="#">DMPA/2022/0844</a>	<a href="#">1/12</a>	Swadlincote	Swadlincote	177

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

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

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMOT/2021/0754](#)

**Valid date:** 10/05/2021

**Applicant:** V Kotecha **Agent:** a.i.architecture

**Proposal:** **Approval of details required by condition 1 attached to ref. DMPA/2020/0915 (two-storey side and single storey rear extension along with attached garage) at 247 Hearthcote Road, Swadlincote, DE11 9DU**

**Ward:** Swadlincote

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

A decision is required which is not wholly in accordance with the resolution taken by Members at Planning Committee on 26<sup>th</sup> July 2022.

This item is presented to the Committee at the request of Councillor Mick Mulgrew based on local objection.

#### **Update report**

When this item was debated in June, Members raised concerns in relation to the use of Ash trees in the landscaping scheme. They also had concerns over the relationship with the neighbour at 249 Hearthcote Road and made the decision to approve the scheme but subject to the erection of a 2 metre high brick wall along this common boundary from the rear of number 247 along the extent of its patio area and the use of replacement trees.

The applicant has confirmed that they are willing to use alternative trees to the Ash trees proposed. They have submitted an amended plan and this shows the following mix of trees:

- 3 x New Field Maple
- 2 x new Silver Birch
- 1 x Beech tree.

In relation to the brick wall the applicant has advised that he is not willing to erect this and wishes the application to be determined as proposed.

For the reasons outlined in the original report it is considered that the proposals are acceptable and as such the Committee is asked to resolve that planning permission be granted in accordance with the recommendation at the end of the report to Committee on 26<sup>th</sup> July, attached as an appendix to this report.

**Item No.** 1.2

**Ref. No.** [DMOT/2021/0754](#)

**Valid date:** 10/05/2021

**Applicant:** V Kotecha

**Agent:** a.i.architecture

**Proposal:** Approval of details required by condition 1 attached to ref. DMPA/2020/0915 (two-storey side and single storey rear extension along with attached garage) at 247 Hearthcote Road, Swadlincote, DE11 9DU

**Ward:** Swadlincote

### Reason for committee determination

*This report was deferred at the meeting on 28 June 2022 to allow Members to undertake a site visit. All parts of the report remain unaltered.*

This item is presented to the Committee at the request of Councillor Mick Mulgrew based on local objection.

### Site Description

The site has an area of 0.6ha and is roughly rectangular in shape. The site is host to a large detached dwelling set back from the highway by a hard surfaced parking area and driveway. A mature belt of landscaping, including a number of protected trees, of which some have been removed, forms the front boundary of the site; this feature provides substantial screening. The property has an extensive garden which is host to two large ponds along with clusters of protected trees. The garden is predominantly enclosed by mature conifers, again of which some have recently been removed. The land levels fall to the north.

The application site is situated within a mixed use area host to building that are highly varied in terms of their design. Dwellings along Hearthcote Road consist of a mixture of traditional and relatively modern properties, semi-detached and detached properties, two storey properties and bungalows. Dwellings are set back from the road at varying intervals and are finished in a range of materials including facing brickwork and render of various colours.

### The proposal

This application seeks approval of details required by condition 1. iv), as set out in the appeal decision APP/F1040/D/21/3266987 which states;

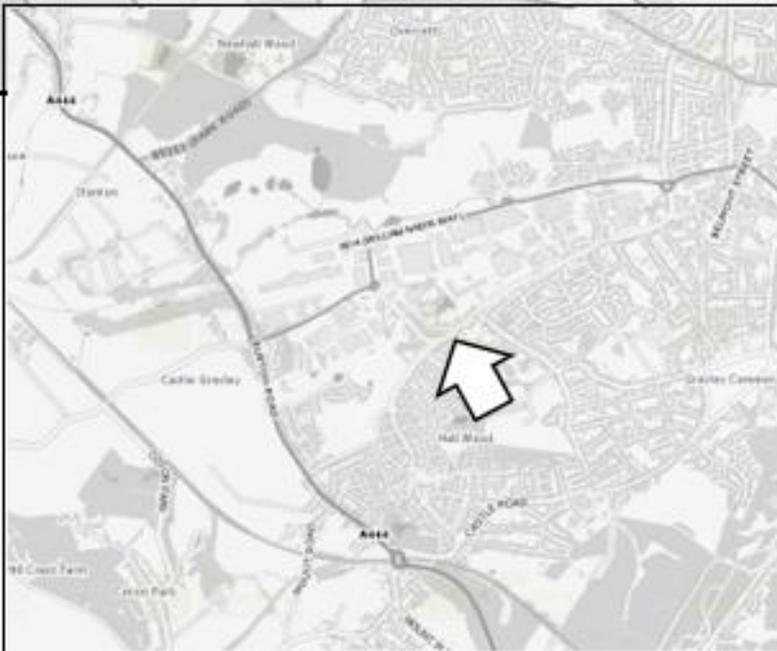
*'iv) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include, but not limited to, means of enclosure and retaining structures, boundary treatments, hard surfacing materials and indications of all existing trees and hedgerows on the land, identification of those to be retained and the measures for their protection throughout the course of development;'*

### Applicant's supporting information

Submitted with the application is;

- Tree Survey and Protection Plan

DMOT/2021/0754 – 247 Hearthcote Road, Swadlincote, DE11 9DU



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South Derbyshire District Council. LA 100019461.2020

- Tree Plan Ref: 582/21
- Existing Hard and Soft Landscaping Details
- Proposed Hard and Soft Landscaping Details
- Tree Removal Plan Dr No. WD020
- Proposed Externals Dr No. WD023
- Proposed Externals Dr No. WD019 A

## Relevant planning history

This application seeks approval of details required by condition iv), as set out in the appeal decision:

DMPA/2020/0915 – Two-storey side and single storey rear extension along with attached garage. Refused, Dec 2020. Appeal Ref. APP/F1040/D/21/3266987 – Decision overturned, Feb 2021.

## Responses to consultations and publicity

Tree Officer – No objections. Recommended that the points within the Tree Report are in place at all times during construction.

1 letter of Objection was received outlining the following concerns;

- a) The tree survey undertaken by BB Trees Ltd deals with trees at G1 and references 2,3, and 4 that are outside the ownership of the applicant and to be clear I do not give any consent for any works to be approved by your Council or undertaken by the applicant and proper root protection must be afforded by the applicant in undertaking any consented works that proximate.
- b) The BB Trees Ltd document also proposes a tree protection methodology that the applicant has disregarded entirely in undertaking the main development to the property.
- c) The application is superficial in nature and fails to show any detail of the proposed hard landscaping areas (being the patio to the rear and drive extension to the front) and purports to represent that only the tree screen indicated under reference G33 is to be removed.
- d) The screen of trees at reference G33 is stated in the BB Trees Ltd document as requiring no works at present and having considerable future growth expectancy. The planning officer at Committee was at pains to assure members that these trees would be retained to protect our amenity. I would request that in determining this application that this screen of trees is directed to remain with whatever adjustments have to be made to the hard landscaping to ensure they are not damaged.
- e) To the front of the property the existing bed of shrubs and trees is represented on the proposed plan to be retained and yet the applicant prior to any determination has undertaken a very substantial excavation of this area that was the only breach by this applicant that your enforcement officer halted and required topsoil to be reinstated. It is therefore clear that the current application fails to correctly represent either the position on the ground nor the intention of the applicant notwithstanding the declaration of truth made in the application form.
- f) The trees to the boundary, reference G24, are shown in the BB Trees Ltd report to be reduced in height. Given the clear overgrowth of these trees this is essential. However, no provision is made as to how our amenity is to be protected through any replacement screening and I would request that the Council directs that suitable screening must be installed.
- g) I should be grateful if the Council would carefully consider imposing appropriate screening measures to ensure that our amenity is appropriately protected, in particular

a wall to the western end of the patio to a minimum height equivalent to the eaves height of the new garage would be of assistance.

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

The relevant Local Plan policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Householder Developments), BNE7 (Trees, Woodland and Hedgerows)

The relevant National Guidance is:

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

The relevant Local Guidance is:

- South Derbyshire Design Guide SPD (Design SPD)

## **Planning considerations**

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

- Impact on trees and hedgerows
- Visual appearance

## **Planning assessment**

### Impact on trees and hedgerows

Drawing WD020 has been submitted and outlines which trees are to be removed from the site. It should be read in conjunction with the Tree Plan Ref: 582/21. The trees to be removed include;

- Tree 4 – Whitebeam
- Tree 5 – Himalayan Contoneaster
- Tree 6 – Japanese Cherry
- Tree G7 – Laural and Holly
- Tree G11 – Various
- Tree G12 – Various
- Tree 13 – Cypress
- Tree 15 – Grand Fir
- Tree G33 – Lawson Cypress

All the trees to be removed are situated at the front of the site apart from Tree G33 which is where the new garage and patio area will be.

It is acknowledged that some trees had previously been removed before the application 2018/0774 was made. To make up for any loss a number of trees are proposed to be planted through out the site. To the front of the site a New Silver Birch will be planted on the south western corner and a New Field Maple and New Beech tree will be planted on the south easter corner. New Beech planting will also be planted in a line along the front boundary.

To the rear of the site, six new trees will be planted within the existing group of trees. These includes two new Ash trees, two new Field Maple trees and a Silver Birch and a Beech tree.

Taking into account that a significant number of trees and hedging would be retained within the site and combined with the further planting proposed, the works still provide a sufficient level of screening to the host property and the green character and appearance of the site and wider area is retained.

The Tree Officer has reviewed the submitted documents and is satisfied the Tree Survey and Protection Plan ensures that trees within the site are fully protected from damage that could occur during construction works.

### Visual Appearance

As stated above, a significant level of vegetation would be retained within the site and combined with the replanting of a number of trees and hedging to the front boundary would result in minor changes when viewed from the street scene. The site would provide an adequate amount of the greenery to maintain the verdant character and appearance of the surrounding area and would be considered acceptable.

The proposed landscaping works include the addition of block paving, a retaining wall, a low level wall surrounding an ornamental fountain, a new wall to the front boundary including a pedestrian gate and electric gates at the entrance of the site. These features are commonly found in residential development such as this and raise no concerns. Furthermore, the amount the vegetation on site will soften the impact of the additional hard landscaping and overall, the additions are acceptable and the condition can be discharged with the detail submitted.

### Land Ownership

A letter of complaint was received from the neighbour outlining land ownership issues. They have stated that *'the trees at G1 and references 2,3, and 4 that are outside the ownership of the applicant and to be clear I do not give any consent for any works to be approved by your Council or undertaken by the applicant'*

This discharge of condition application relates specifically to the original application DMPA/2020/0915 where any issues over ownership of land needed to have been brought forward then. It would not be reasonable to hold up the determination of this discharge of condition application for issues of land ownership which does not amount to a material planning consideration.

### Conclusion

Overall, no objections have been raised from the Tree Officer and the details submitted are considered to be acceptable for the discharge of the planning condition.

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

### **Recommendation**

That the condition can be discharged according to the submitted documents.

1. Discharge of Condition 4 – The submitted details of the hard and soft landscape works, the Tree Survey and Protection Plan and Tree Planting and Removal details are considered to be acceptable and the condition can be discharged in relation to the application DMPA/2020/0915.

**Item No.** 1.2

**Ref. No.** [DMPA/2022/0836](#)

**Valid date:** 09/06/2022

**Applicant:** Dean Willshee

**Agent:** Marrons Planning

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

**Ward:** Repton

### **Reason for committee determination**

*This item to returned to Committee following the deferral of the application at the Committee on 26<sup>th</sup> July 2022 to allow the consultation period on the application to expire. Additions or amendments to the original report are included below in italics.*

This item is called to Committee by Councillors Kerry Haines and Andrew Churchill due to local concern about a particular issue.

Cllrs Haines and Churchill both request that as notification of these applications (this and amended application for the 8 holiday lodges) was only circulated on 11/7/22, Bretby Parish Council and local residents will not have had sufficient time to consider the applications if it is proposed that either were to come to the July Planning Committee. With this in-mind, may we request that neither is considered until after the next Bretby Parish Council meeting on Thursday 8/9/22

With regard to the timing of the consideration of this application, it is considered appropriate to allow the committee to consider the risks of a non-determination appeal, the potential loss of the applicants grant money and the additional financial implications to the Council, to be balanced against the lack of a Parish Council meeting until 8 September.

### **Site Description**

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

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

The first phase is completed with the 8 cabins erected on site and amendments to this previously approved scheme were recently granted by Members at Planning Committee.

**DMPA/2022/0836 - Knights Lodges, Knights Lane, Bretby, Burton On Trent, DE15 0RT**



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There is temporary fencing between phases 1 and 2, as the second phase is already well under construction and Members will recall refusing this second phase recently at Planning Committee.

### **The proposal**

This is a revised application for the leisure building following refusal of the planning application ref: DMPA/2021/1196 by members at Planning Committee on 03 May 2022. The amendments include;

- Reduction of the overall scale and massing of the building from  $482m^2$  to  $393m^2$  (GEA) from the removal of the western wing of the leisure building;
- Removal of the western wing increases the distance of the proposed leisure building to the nearest heritage assets to the south-west of the site by some 9m;
- The proposed leisure building has been “cut into” the landscape, assisting in reducing the visual impact of the proposals when viewed from the south and from the west. A stone retaining wall has been erected to the south also; and
- The proposed landscaping has been reconfigured to resemble a visual buffer, which will further screen the proposals when viewed from the west of the application site. By offering a greater density of planting, the proposals will also secure on-site biodiversity net gain via use of appropriate native species. Additional tree planting is proposed along the northern hedge line to assist in the filtering of the views of the leisure building, and hedgerow around the leisure building has been amended to give boundary space and allow for additional trees planted in this location. Additional grassland and wildflower meadow planting around the perimeter of the wider site is also proposed.

### **Applicant’s supporting information**

The applicant has submitted a substantial number of documents to support this application including;

- Fall Back Position Letter dated 21<sup>st</sup> July 2022
- Site Location Plan, drawing no. 1560W 20 rev. D
- Proposed Site Plan Scale 1:200, drawing no. 1560W 19 rev. D
- Proposed Site Level Plan, drawing no. 1560W 22B
- Ground Floor Plans and Elevations, drawing no. 1560W 18 rev. A
- Materials Schedule, drawing no. 1560W 21 rev. A
- Leisure Building 3D Indicative Visuals
- Tree Planting Proposals, drawing no. GL0797 05E prepared by Golby and Luck Associates
- CONFIDENTIAL Business Plan, prepared by Marrons Planning
- Ecological Impact Assessment April 2022, prepared by Ecolocation
- Ecological Condition Discharge Letter January 2021, prepared by Ecolocation
- Landscape and Ecological Management Plan, prepared by Golby and Luck Associates
- Landscape Visual Impact Assessment (June 2022 update), prepared by Marrons Planning
- Flood Risk Assessment, prepared by PRP and the following drainage documents:
  - Drainage Construction Details, drawing no. 108 rev. P1
  - Drainage Layout, drawing no. 105 rev. P10
  - Package Plant Maintenance Schedule
  - Infiltration Rates o Maintenance Schedule
  - Management Schedule for Surface water during Construction
  - Trial Pit Logs

- Greenfield Runoff Rates
- 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculations

It is understood that there is grant monies available to the applicant to contribute to the delivery of the Leisure Building and there are timescale implications for the use of this money.

### **Relevant planning history**

9/2017/1402. Erection of 8 holiday cabins and associated access and parking facilities (phase 1). Approved May 2018.

DMPA/2019/1305- Erection of 8 holiday cabins (Phase 2). Approved March 2020.

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

DMPA/2020/0933 Retention of plant room. Approved January 2021.

DMPA/2020/0395. Revision to phase 1 layout. Approved May 2022.

DMPA/2021/1209. Revision to phase 2. Refused May 2022.

DMPA/2021/1196. Erection of a leisure building with associated access, parking and landscaping. Refused May 2022.

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

The current application comprises some variations (to reduce the scale and impact of the building) when compared to the previously refused scheme from May 3 Planning Committee. It is necessary to report this application to this committee to enable the applicant to retain the possibility of utilising the grant money available for such projects. The responses below relate to the previously refused scheme, and any further updates will be provided verbally at Committee.

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

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

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

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

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

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

No other comments have been received to the consultation process.

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

The relevant Development Plan policies are:

2017 Local Plan Part 1 (LP1) – S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), and INF10 (Tourism Development).

2016 Local Plan Part 2 (LP2) – SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows), and BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (Design SPD)

The relevant national policy and guidance is:

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

The relevant legislation is:

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

### **Planning considerations**

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

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

## Planning assessment

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

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

The application for a larger leisure building was refused permission following a decision at the 3 May Planning Committee. The reason for refusal was in relation to the scale of the building proposed at that time and the effect that this would have on the landscape. Following this officers met the applicant and his agents on site to discuss the potential for a reduced scale of development to bring the application more into line with the scale of the leisure building previously approved. This application has been submitted in response to this.

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

Notwithstanding these points it is considered that the amendments to the scheme do amount to a successful attempt to reduce the impact of the leisure building to bring its impact closely in line with the previously approved leisure building. The changes that are of most significance in this regard comprise the removal of the front west wing of the building which reduces its scale from a GIA of 437 square metres for the refused scheme to 355 square metres now (482 to 393 GEA). This compares to 344 square metres for the previously approved leisure building. The construction materials are considered to be appropriate in the setting, additional landscaping is proposed to the west of the building, and the building is to be dug into the site 0.6m lower than previously proposed, further reducing its impact.

As previously proposed this leisure building provides facilities, which support the retention of the tourists who stay in the cabins and lodges to stay on site during the day, if they wish to, to have a swim, a massage, or other facilities provided within the building. It adds to the offer available for occupants. The issues relate mainly to the changes in the size of the amended leisure building, and the change of materials from that previously approved in terms of its impact on the landscape and the visual amenity of the site and surrounding area. Tourist facilities are assessed under policy INF10 of the South Derbyshire Local Plan Part 1 2016.

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

their guests only, and not for general public or community use.

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

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

The wording of policy Policy INF10 is as follows:-

- 'A. Tourism development, including overnight accommodation and visitor attractions, will be permitted: i) within or adjoining the urban area or the Key Service Villages or; ii) in other appropriate locations where identified needs are not being met by existing facilities.'
- B. The District Council will seek to maximise opportunities to deliver new or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate.
- C. In all cases the District Council will expect new tourism development to be i) provided through the conversion or re-use of existing buildings or; ii) accommodation of a reversible and temporary nature, or iii) sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all other relevant policies in the Local Plan.
- D. New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused.'

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

In terms of aspects of C.iii), the proposal is not significantly different in construction terms to the previously approved building. The changes to the scheme in terms of its footprint and scale are more in line with the approved scheme than the more recent refused leisure building. The additional landscaping to the west, the reduction in width of the buildings frontage and the digging into the site combine to result in a reduced impact on the landscape.

In sustainability terms, there is now very little difference between the principles of the approved scheme and the proposed scheme. The appearance of the leisure building will be different to that of the approved scheme by virtue of the increase in size but to a much lesser extent to the previously refused leisure building. This is assessed further below under aspect D, but it is concluded that the proposal is comparative to the assessment of the approved scheme under aspect C.iii of INF10.

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

The increase in the size of the leisure building over the previously approved scheme is now a lesser scale. This new building will retain the original 'L' shaped footprint of the building and the additional landscaping to the west and digging the building into the site result in a very similar impact to the originally approved leisure building.

A planning judgement needs to be made, on balance, as to whether these differences amount

to a new development which is now unacceptable in terms of its impact on the local landscape, or would have undue effects on the overall character of the landscape. Whilst it is concluded that there are some more detrimental impacts from the revised scheme, it is considered that the impacts are substantially reduced from the previously refused scheme, and are not in themselves sufficiently detrimental as to result in a refusal of the scheme, or an unduly significant harm caused by the appearance of the development in the landscape, above that caused by the existing approved developments impact. The landscape scheme can soften the visual impacts of the development and improve the biodiversity at the site.

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

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

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

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

#### Impact of the development on highway safety

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

The amount of car parking provided for the leisure building has been reduced to be closer to that amount previously proposed, so as not to be excessive. Most residents would walk to the

leisure building given the short distances, but there is likely to be some need for staff parking for maintenance and cleaning, although in the times between the customers being on the site, cleaning and maintenance vans could also use the spaces at the lodges.

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

#### Impact of the development on surface water management

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

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

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

#### Other Matters

##### *Fall-back position*

*The agent has provided a letter stating that permission was granted on 29 May 2020 for the "Erection of a Leisure Building with associated access, parking and landscaping" ancillary to the existing leisure tourism accommodation on site - with a gross internal area (GIA) of 392.5sqm with internal accommodations including a pool, steam and sauna, reception, games area and changing facilities. The plans are incorrectly annotated that the GIA is 326sqm, whereas in fact the approved building scales off at 392.5sqm.*

*The current application has a GEA of 393sq.m and a GIA of 355sq.m (compared with 344). The GEA of the revised scheme is only 0.5sqm larger than that of the approved scheme, and the GIA is only 11sq.m larger. This equates to a minor 3.2% increase in GIA, and an even smaller 0.1% increase in GEA. The current proposal is for a building with essentially the same GEA as the fall-back permission and a negligibly larger (11 sqm) GIA than the fallback position. This fallback position is a material consideration in the determination of this application and the figures quoted by the applicant in their submission are considered to be accurate.*

##### *Funding Concerns*

*The applicant has advised that they have secured funding to the amount of £180,000 (subject to a completion date of mid-December 2022) from DEFRA which reflects the Government's support for micro and small businesses and farm diversification. This funding will be lost if development is not started on site within the next few months and would result in a significant financial loss to the business.*

*The applicant has advised that should the Council refuse the scheme they would need to consider their options for seeking to recover any consequential financial losses from the Council through the appeals process.*

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref;
  - Site Location Plan, drawing no. 1560W 20 rev. D;
  - Proposed Site Plan Scale 1:200, drawing no. 1560W 19 rev. D;
  - Proposed Site Level Plan, drawing no. 1560W 22B;
  - Ground Floor Plans and Elevations, drawing no. 1560W 18 rev. A;
  - Materials Schedule, drawing no. 1560W 21 rev. A;
  - Tree Planting Proposals, drawing no. GL0797 05E prepared by Golby and Luck Associates;
  - CONFIDENTIAL Business Plan, prepared by Marrons Planning,
  - Ecological Impact Assessment April 2022, prepared by Ecolocation;
  - Ecological Condition Discharge Letter January 2021, prepared by Ecolocation;
  - Landscape and Ecological Management Plan, prepared by Golby and Luck Associates;
  - Landscape Visual Impact Assessment (June 2022 update), prepared by Marrons Planning;
  - Flood Risk Assessment, prepared by PRP;
  - Drainage Construction Details, drawing no. 108 rev. P1;
  - Drainage Layout, drawing no. 105 rev. P10;
  - Package Plant Maintenance Schedule;
  - Infiltration Rates;
  - Maintenance Schedule;
  - Management Schedule for Surface water during Construction;
  - Trial Pit Logs; and
  - Greenfield Runoff Rates, 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculations.

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

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

3. The development shall take place accordance with the drainage proposals outlined within;
  - Flood Risk Assessment, prepared by PRP and the following drainage documents:
  - Drainage Construction Details, drawing no. 108 rev. P1
  - Drainage Layout, drawing no. 105 rev. P10
  - Package Plant Maintenance Schedule received 9th June 2022
  - Infiltration Rates received 9th June 2022
  - Maintenance Schedule received 9th June 2022
  - Management Schedule for Surface water during Construction received 9th June 2022
  - Trial Pit Logs received 9th June 2022
  - Greenfield Runoff Rates o 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculation received 9th June 2022

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

4. Prior to the first use of the development hereby approved the parking and manoeuvring space shown on drawing ref: Proposed Plans Site Plan drawing no. 1560W 19 D as received by the local planning authority on 9th June 2022, shall be laid out and maintained throughout the life of the development free of any impediment to its designated use.

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

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

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

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

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

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

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

8. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2020 - 11(08) produced by Ecolocation received 9th June 2022. The measures shall be implemented and retained as such thereafter.

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

9. The facing and roofing materials and fenestration to be used shall follow the details as described within the submitted Materials Schedule Drawing no. 1560W 21 rev. A. The stone used to be used on the main face of the building shall be constructed using irregular patterning within the mortar layers and irregular sizes of stone, to avoid straight horizontal lines across the plain of the face of the walls to replicate the impression of a dry stone wall, and given more of a rural appearance to blend in with the countryside location. The development shall be constructed using the approved facing, roofing and fenestration materials.

Reason: In the visual interest of the building and the surrounding countryside.

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

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

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

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

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

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is

operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

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

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

**Item No.** 1.3

**Ref. No.** [DMPA/2022/0838](#)

**Valid date:** 09/06/2022

**Applicant:** Dean Willshee

**Agent:** Marrons Planning

**Proposal:** **Retrospective application for the erection of 8 holiday lodges at Knights lodge, Knights lane, Bretby, Burton on Trent, DE15 0RT**

**Ward:** Repton

### **Reason for committee determination**

This item is called to Committee by Councillors Kerry Haines and Andrew Churchill due to local concern about a particular issue.

Cllrs Haines and Churchill both request that as notification of these applications (this and amended application for the Leisure Building) was only circulated on 11/7/22, Bretby Parish Council and local residents will not have had sufficient time to consider the applications if it is proposed that either were to come to the July Planning Committee. With this in-mind, may we request that neither is considered until after the next Bretby Parish Council meeting on Thursday 8/9/22

With regard to the timing of the consideration of this application, it is considered appropriate to allow the committee to consider the risks of a non-determination appeal, the potential loss of the applicants grant money and the additional financial implications to the Council, to be balanced against the lack of a Parish Council meeting until 8 September.

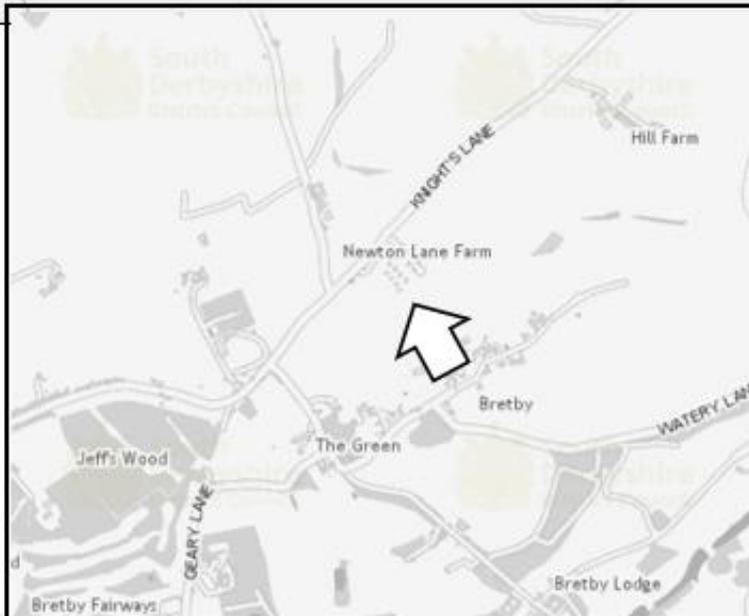
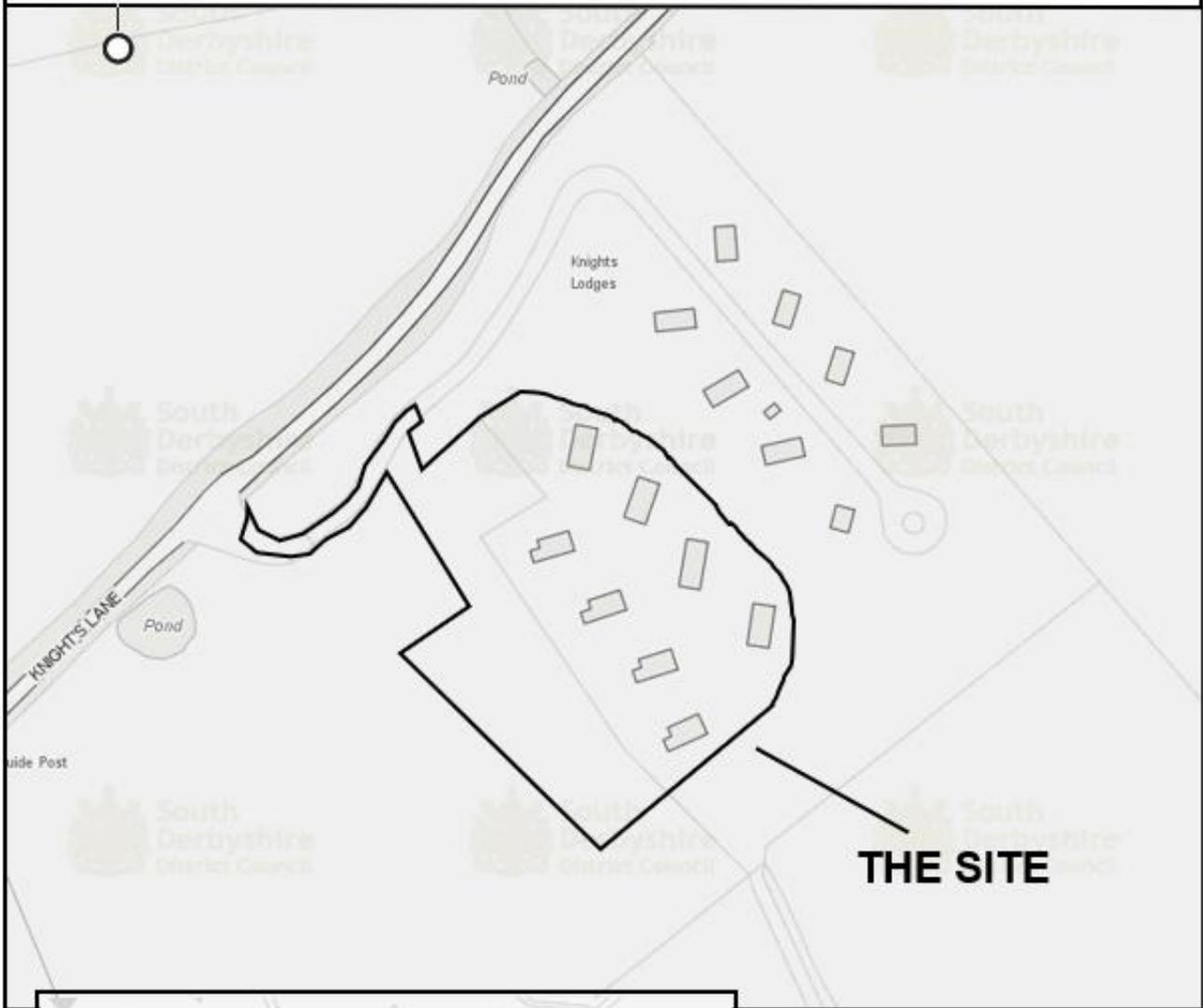
### **Site Description**

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

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

The first phase is completed with the 8 cabins erected on site. There is temporary fencing between phases 1 and 2, as the second phase is already well under construction with this post

**DMPA/2022/0838 – Knights Lodge, Knights Lane, Bretby, Burton On Trent, DE15 0RT**



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facto scheme for the permanent buildings. At the time of the site visit, most were being constructed with the breeze blocks showing prior to the timber cladding being added.

## **The proposal**

The proposal is the resubmission of the refused application DMPA/2021/1209 for the retrospective erection of the 8 permanent holiday lodges x4 of the cabins will be two bed, x4 of the cabins will be three bed. The cabins will be constructed on a concrete foundation, with walls comprising concrete blocks on top of blue engineering brick, covered with larch decking and stone as per the accompanying plans to ensure that they visually resemble the cabins already on-site. A covered outside decking area, with enough space for a table and outdoor hot tub is also proposed.

The materials of the proposed cabins are shown on the attached Floor Plans and Elevations. Walls will be constructed from larch cladding to match the 8 existing cabins on-site. The roof will be Catnic SSR2 standing seam in anthracite. Anthracite uPVC windows and doors are also proposed. 21 parking spaces are also proposed.

The changes made to this resubmission include ;

- the proposed landscaping between the holiday cabins has been reinforced with appropriate species, further screening the proposals when viewed from the north-west and from the west. An additional 33 trees are proposed to those previously offered under planning application ref: DMPA/2021/1209. This landscaping will assist in visually screening the proposals whilst delivering biodiversity benefits, and will assist in further assimilating the 8 holiday cabins into the surrounding landscape.
- a Unilateral Undertaking or S.106 agreement is agreed in draft between the applicant and the Council, which seeks to limit the use of the proposed holiday lodges to holiday accommodation only by placing a legal charge upon the land. The details of this Legal Agreement will be drafted and agreed in principle between the applicant and the Council prior to the determination of this planning application, to ensure that the Knights Lodges site remains in perpetuity as a tourism facility within the District.
- additional landscaping is proposed that will ensure that biodiversity net gain is delivered on-site. The additional landscaping, provided around the perimeter of the Knights Lodges site comprise additional wildflower planting and species rich grassland, delivering new habitat on-site. The new habitat will be managed by the measures outlined within the updated LEMP submitted in support of this current application.

## **Applicant's supporting information**

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

## **Relevant planning history**

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

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

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

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

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

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

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

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

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

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

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

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1) – S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land

and Mining legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF10 (Tourism Development).

Local Plan Part 2 (LP2) – SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows), and BNE10 (Heritage).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (Design SPD)

The relevant national policy and guidance is:

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

The relevant legislation is:

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

### **Planning considerations**

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

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

### **Planning assessment**

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

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

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

impact than the approved phase 2 scheme on the basis of providing a greater amount of on site accommodation, and therefore more people visiting the site and surrounding tourist facilities and commercial businesses and therefore increased economic spending in the local economy.

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

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

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

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

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

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

The wording of policy INF10 is as follows:-

- 'A. Tourism development, including overnight accommodation and visitor attractions, will be permitted: i) within or adjoining the urban area or the Key Service Villages or; ii) in other appropriate locations where identified needs are not being met by existing facilities.'*
- B. The District Council will seek to maximise opportunities to deliver new or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate.*
- C. In all cases the District Council will expect new tourism development to be i) provided through the conversion or re-use of existing buildings or; ii) accommodation of a reversible and temporary nature, or iii) sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all other relevant policies in the Local Plan.*
- D. New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused.'*

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

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

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

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

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

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

This resubmitted scheme has taken on board comments made a by Members at the last Committee and has included additional wildflower meadow and grassland planting creating new habitat on-site and therefore significantly improving the biodiversity value of the Knight Lodges site in accordance with Policy BNE2 of the Local Plan. An additional 33 trees are proposed also further screening the proposals when viewed from the north-west and from the west and it is considered this additional planting at the site will help to reduce the visual impact of the lodges over time as the planting matures, lessening the visual impact of the lodges.

An updated Landscape Visual Impact Assessment, including a Landscaping Framework accompanies the proposed development. The findings of the LVIA state the proposed cabins impact upon the surrounding countryside is acceptable and the screening offered by the topography in the area and retained hedgerows and further proposed planting would further limit visual impact. The combined impact on the landscape character area of the existing and

proposed developments when viewed together would lead to neutral impacts and subject to future planting may enhance the area as sought under policies E7, BNE1, BNE3, BNE4 and INF10 of the Local Plan.

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

#### Impact of the development on surface water management

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

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

#### Impact of the development on highway safety

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

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on a Unilateral Agreement or Section 106 Agreement in respect of restrictions on the use of the lodges; and
- B. Subject to A, **Approve** the application subject to the following condition(s):
  - 1. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref; Site Location Plan, drawing no. 1560W 15 rev. C, Proposed Site Plan Scale 1:200, drawing no. 1560W 13 rev. C, Proposed Site Plan Scale 1:500,

drawing no. 1560W 14 rev. C, Proposed 2 Bed Lodge – Gallahad, drawing no. 1560W 11, Proposed 3 Bed Lodge – Lancelot, drawing no. 1560W 12, Material Schedule, drawing no. 1560W 23, Tree Planting Proposals, drawing no. GL0797 01 rev. J prepared by Golby and Luck Associates, CONFIDENTIAL Business Plan June 2022, prepared by Marrons Planning, Ecological Impact Assessment April 2022, prepared by Ecolocation, Ecological Condition Discharge Letter January 2021, prepared by Ecolocation, Landscape and Ecological Management Plan, prepared by Golby and Luck Associates, Landscape Visual Impact Assessment (June 2022 update), prepared by Marrons Planning all received 9th June 2022 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990

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

2. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, ( or any Order(s) revoking or re-enacting either or both Order(s)); the lodges hereby approved shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the local planning authority, and:
  - i. the buildings shall not be occupied as a person's sole, or main place of residence;
  - ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
  - iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the local planning authority. The contact details for the site operator shall be supplied in writing to the local planning authority prior to the first occupation of a cabin on the site, any subsequent change in operator (including their contact details) shall be notified to the local planning authority no later than 5 days following that change.

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

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

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

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

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

5. The development shall take place accordance with the drainage proposals outlined within the Flood Risk Assessment, prepared by PRP and the following drainage documents:

- Drainage Construction Details, drawing no. 108 rev. P1
- Drainage Layout, drawing no. 105 rev. P10 o Package Plant Maintenance Schedule
- Infiltration Rates o Maintenance Schedule o Management Schedule for Surface water during Construction
- Trial Pit Logs
- Greenfield Runoff Rates
- 1 in 1 year, 1 in 30 year, 1 in 100 year + 40% climate change and 1 in 100 year storm calculations

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

6. The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2020-11 (08) produced by Ecolocation dated 1st April 2022. The measures shall be implemented and retained as such thereafter.

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

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

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

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

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

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

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

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

Reason: In the interests of highways safety.

11. The submitted Noise Mitigation Scheme shall be implemented as approved. This scheme as a minimum should include measures to ensure:
  - i) a quiet site policy to be enforced between 10pm and 8am;
  - ii) hot tubs, should be switched off and vacated by 11pm and that they are all enclosed according to a design to be provided with details submitted to the local planning authority for approval prior to first occupation; and
  - iii) no external music to be permitted or facilitated.

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

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

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

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

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

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

#### Informatives:

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

d. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

e. Advisory/Informative Notes

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

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

C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

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

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

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

G. The applicant should provide a flood evacuation plan which outlines:

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

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

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1%

probability annual rainfall event, to ensure exceedance routes can be safely managed.

- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

#### Peak Flow Control

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

#### Volume Control

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

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

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

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

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

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

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

**Item No.** 1.4

**Ref. No.** [DMPA/2021/1687](#)

**Valid date:** 02/11/2021

**Applicant:** JSC Farming ltd & Central Land Holdings Ltd      **Agent:** Mark Owen

**Proposal:** **Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for A District Centre comprising a Retail Foodstore (Use Class E), Retail/Café/Restaurant/Drive-Thru units/Nursery (Use Class E/Sui Generis), a Transport Mobility Hub and Petrol Filling/Electric Charging Station (Sui Generis). Residential development (Use Class C3), a care home (Use Class C2), a community facility (Use Class F2), and associated road infrastructure, landscaping, services, and engineering works. Land east of Chellaston Lane and south of Shardlow Road , Derby**

**Ward:** Aston

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

This item is presented to the Committee at the request of Councillor Watson as local concern has been expressed about a particular issue and as the proposed development does not fully accord with the Development Plan.

#### **Site Description**

Boulton Moor lies on the south eastern edge of Derby, approximately 6.5km from Derby City Centre and immediately south west of Alvaston. The built up area adjoining the site to the north/north-west comprises housing which formed part of the original Boulton Moor site. To the south and south-west form further phases of residential development recently constructed, under construction and consented development. To the east lies the A6 and beyond this further agricultural land and Elvaston Castle Registered Park and Garden.

The Site extends to approximately 12.68 hectares (ha) in area and is flat, open and low-lying arable farmland split into northern and southern parcels by Thulston Brook, which runs through the centre of the site, east to west. Hedgerows and trees follow the line of the Thulston Brook and all boundaries of the site, except to the south of the site. There are no Tree Preservation Orders (TPOs), veteran trees or ancient woodland on the site,

The west of the site is bound by Chellaston Lane and the north by Shardlow Road. These intercept at a roundabout directly to the north of the site, just beyond its boundary.

#### **The proposal**

The application is made in outline, with access being considered and all other matters of layout, scale, appearance and landscaping reserved for later consideration. The proposals are for a District Centre comprising a Retail Foodstore (Use Class E), Retail/Café/Restaurant/Drive-Thru units/Nursery (Use Class E/Sui Generis), a Transport Mobility Hub and Petrol Filling/Electric Charging Station (Sui Generis). Residential development (Use Class C3), a care home (Use Class C2), a community facility (Use Class F2), and associated road infrastructure, landscaping, services, and engineering works.

**DMPA/2021/1687 – Land east of Chellaston Lane and south of Shardlow Road, Derby**



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The illustrative plans and statements submitted in support of the application show the proposals to include:

- Up to 228 new residential dwellings (reduced from 300 during the application)
- 1 x Care home.
- Food store, restaurants with drive thru capability and local retail units;
- 1 x Community Building;
- 1 x Transport Mobility Hub, including a bus hub, bus layby, EV charge points and the possibility for other more sustainable transport measures such as E bikes;
- 1 x Petrol Filling (PFS) / Electric Charging Station. The PFS is a hybrid PFS/EV station that will evolve into a full EV station over time and with the increase of EV's on the market.;
- Areas of Open Space and Landscaping Buffers across the site

## **Applicant's supporting information**

### **Planning Statement**

This statement outlines the proposals, the supporting documents submitted, the physical characteristics of the site, planning history and background information and the relevant policy framework with an assessment of the proposals against this framework provided. The statement concludes that the proposal will be an integral component of the overall Boulton Moor development. It will offer a variety of services and facilities for existing and proposed residents and will provide a number of residential dwellings.

### **Design and Access Statement**

The document sets the vision and key benefits of the development as being a sustainable attractive development with a range of uses including residential, retail and transport mobility hub. A range of different homes can be provided on the site and the district centre will be linked to the wider Boulton Moor development with new walking and cycling routes and enhancement of the habitats along the Thulston Brook. The document describes the existing site and key features, together with its landscape context, the planning history, existing facilities and transport infrastructure and local and national planning policy context. Examples of local vernacular and built form within the surrounding area are identified. General characteristics such as red brick-built forms, enclosed street frontages and residential buildings being 2-3 storey in height are identified, together with boundary treatment and car parking. It identifies public engagement and consultation events and the evolution of the design/land use of the site and sets out the key parameters and principles of development, identifying green and blue infrastructure, building heights, land uses and street typologies.

### **Heritage Statement**

This document identifies a number of designated heritage assets within 1km of the site including the Grade 1 Church of St Bartholomew, the Grade II\* Elvaston Castle and a number of Grade II ancillary buildings within the castle grounds. The document does not identify or assess the impact on any known or unknown archaeological potential of the site. It assesses the heritage interests of the assets identified, noting their setting and any interlinked relationships. The document concludes that the site does not make any meaningful contribution to the heritage significance of the assets identified other than forming part of their wider setting. The setting of the Elvaston Castle listed buildings and Church of St Bartholomew are interlinked with their setting largely derived from the Registered Park and Garden. Whilst the setting of the Registered Park and Garden comprises the wider agricultural surrounding up to the River Derwent in the north and A6 in the west. The document takes the view that the site will be shielded to the east by the existing tree planting and the introduction of a landscaping buffer, with commercial and community uses to the north of the Thulston Brook. South of the

Brook, residential uses are proposed with areas set aside for children's play areas, landscaping and drainage attenuation. These uses are considered appropriate and will simply extend the existing residential and commercial land uses in the area which already form part of the surrounding context to the identified heritage assets. The proposed planting would also reinforce a sense of enclosure to the site and provide further separation with Elvaston Castle Registered Park and Garden, and its listed buildings contained within. It considers that the proposals therefore meet the statutory and policy tests set out in the 1990 Act and Chapter 16 of the NPPF

### **Desk Based Contamination Assessment**

This document identifies the history of the site and its geology, hydro-geology and hydrology in assessing the contamination potential of the site and its implications for the development proposals. The document notes that the historical maps indicate the site has been predominantly fields from the earliest maps reviewed to the present day. It lists the potential on-site sources of contamination include farming and waste treatment activities. A number of potential off-site sources of contamination have been identified within 250m of the site and these include infilled ground, gas governor, pumping station, an electrical substation, farming and waste treatment activities. The conceptual model developed and risk assessment undertaken indicates that there is a low to medium risk of encountering contamination during development. It is recommended that prior to development that a site investigation to include chemical testing of soil samples is undertaken to confirm this identified risk rating. Based on the findings of this further work it may be necessary to undertake remedial works.

### **Ecology Report and Biodiversity Net Gain Assessment**

The report consists of a review of previous ecology surveys undertaken and the results of a detailed habitat survey and tree inspection undertaken in October 2020 and September 2021. The report identifies the key characteristics of the site, the legislative framework for assessing applications and their impact on biodiversity and specific species and describes the methodology employed to assess the site. It identifies constraints and limitations and concludes in detail the findings of the surveys and the implications of development on habitats and wildlife concluding that the site is largely unchanged from previous surveys in terms of its ecological status. The key habitats of ecological value are the Thulston Brook and hedgerows H1 and H2a/H2a. These will largely be retained within the proposed layout, including three mature trees located on the Thulston Brook. The arable field interiors and associated field margins would be lost but these are of negligible ecological value. Thulston Brook will be diverted along part of its length and sections of hedgerow H2a and H2b have previously been removed to facilitate the brook diversion. These do not qualify as 'Important' under the Hedgerow Regulations but the loss will be mitigated by native species tree and shrub planting within the retained Thulston Brook corridor. It makes a number of recommendations to maintain and enhance the ecological value of Thulston Brook and associated corridor including sensitive naturalistic channel design and native wetland planting, coupled with suitable long-term management. The proposed new attenuation basins would also be designed and managed to maximise their biodiversity value. Protected species are limited to evidence of foraging by along the Thulston Brook corridor and western field boundary which will be retained and the presence of a confirmed bat roost (a summer roost for a single common pipistrelle bat) within a mature pedunculate oak tree T8. This tree will be retained within the Thulston Brook habitat corridor, and the proposed new habitats and sensitive lighting and management will ensure that the corridor continues to provide suitable bat foraging/commuting habitat. Two green crossing points are proposed over Thulston Brook, and recommendations are given to minimise the impact of these crossing points by maintaining some channel bed substrate beneath the crossing points. A precautionary approach is recommended for

comprising an update inspection prior to the start of construction and covering of open excavations at night and/or use of ramps to prevent animals becoming trapped. Overall, the report concludes that there are no features of ecological value that would preclude development of the site and the key features of interest would be adequately retained and safeguarded within the site layout with suitable, undisturbed buffer zones. Furthermore, it considers that this development seeks to provide an overall biodiversity net gain. through the retention and enhancement of the Thulston Brook corridor which will provide a net biodiversity gain in terms of river habitat condition as well as a net gain in the extent and condition of native tree and shrub species compared with the current situation. The ecologically designed attenuation basins will also represent a net habitat gain compared with low value arable land that they are replacing. The net gains will be delivered through ecologically sensitive design of the diverted river channel to incorporate greater channel diversity and a net increase in native tree and shrub cover as well as use of native wetland species planting throughout the proposed wetland attenuation areas.

The Biodiversity Net Gain assessment demonstrates the capabilities of the site in delivery substantial biodiversity enhancements and benefits.

### **Landscape and Visual Impact Assessment**

The document assesses the landscape characteristics and quality of the site and its surroundings, the visibility of the site and the nature and quality of existing views, identifies opportunities and constraints to development and assesses the likely landscape and visual effects resulting from the development. It identifies the site as falling within National Character Area 69: Trent Valley Washlands with its key characteristics being narrow, linear and low-lying, comprising flat flood plains and gravel terraces of the rivers, pastoral areas with thick, full hedgerows and contrasting arable areas with larger fields and lower, small hedgerows, history of human settlement, which is heavily influenced by flood risk. The site also falls within Landscape Character Type 5a 'Village Farmlands' of the East Midlands Region Landscape Character Assessment. This area is characterised by a gently undulating landscape and alluvial floodplains, a mixed agricultural regime, small broadleaved woodlands, hedgerows and frequent oaks, small historic villages and localised influence by large estates. The assessment considers the site not to be typical of this LCA, more closely associated with the settlement edge of Boulton Moor. The site is also within the Derbyshire Landscape Character Assessment LCT: Lowland Village, which includes as its key characteristics gently rolling lowland with river terraces, mixed farming, thinly scattered hedgerow trees, watercourse trees, thorn hedgerows and red brick villages and farms. The assessment considers the site to be of low landscape value for a number of reasons including it not being noteworthy scenic beauty, containing very little vegetation, no public access to the site and is not perceived as being remote due to its intervisibility with the surrounding built environment. and is considered to have a low susceptibility to the development due to it being on the existing settlement edge, its simple composition, partially enclosed by mature vegetation with opportunities to enhance green infrastructure. The assessment concludes that the proposed development will result in adverse effects ranging from Negligible Adverse to Moderate Adverse on the majority of the landscape character and visual receptors, with 1 receptor - Chellaston Lane adjacent to the western boundary -likely to be subject to Major Adverse effects at Year 1, due to the current open views. The development has been guided by landscape and visual mitigation in its design process and provides a landscape and visual mitigation strategy that includes native planting. Due to thee at year 15 the majority of effects are anticipated to reduce in significance and as such the site is considered to have the capacity to accommodate the development without unacceptable long term effects.

### **Energy and Sustainability Report**

The report demonstrates how the development could be taken forward in accordance with

national and local planning policies. It establishes the principles to be given further consideration at the reserved matters stage. It acknowledges the presumption in favour of sustainable development at the national level and that the Local Plan encourages sustainable design and construction to be incorporated into development proposals to ensure sustainable development.

The report sets out how the proposed development will follow the requirements of both national and local planning policies and demonstrates how it will exceed the benchmarks set out in the current Building Regulations, through a fabric first approach with consideration to water efficiency, electric vehicle infrastructure and sustainable drainage. It promotes the overall concept of a District Centre within the heart of the sustainable urban extension combined with the proposed residential uses and incorporation of urban design best practice together as being in line with the overall aim of creating a sustainable community. In addition, it identifies the following sustainable design and construction principles that have been adopted in the proposals design: -

- Strong consideration of the existing landscape and the natural environment in the development of the proposed layout;
- Commitment to best practice sustainable design and construction principles, to be developed further throughout the detailed design process; and
- Commitment to the reduction of carbon emissions, meeting or where possible exceeding building regulation requirements.

The report also states that consideration will be given at the reserved matters stage to achieving high standards of BREEAM accreditation for the non-residential buildings proposed, building upon the above sustainable design and construction best practice principles.

### **Archaeological Desk Based Assessment**

The assessment provides a description of archaeological assets potentially affected by the proposed development of the site. It assesses their significance and the relevant policies and guidance. The assessment notes that data available shows that there are no Scheduled Monuments within the proposed development site, or outside of the site which are assessed as sensitive to development outside the site. The assessment acknowledges the two non-designated assets located within the site; the site of a possible Late Prehistoric barrow and Medieval/Post-Medieval ridge and furrow. No visible remains of either monument remain above ground. Based on the archaeological data for the site and the surrounding area, the report considers that the site has a moderate or high potential for Prehistoric and/or Iron Age/Roman remains and a low/negligible potential for significant (i.e. non-agricultural) remains of all other periods. Any such evidence would be significant for their evidential value and likely be of local to regional importance depending on their potential to contribute to relevant research agendas. The report notes that further archaeological work may be required by the to evaluate the site's archaeological potential and assess the impact of specific development proposals.

### **Flood Risk Assessment**

The report gives a brief summary of the existing drainage situation, works permitted by the EA to slightly realign the Thulston Brook, and identifies the majority of the site as falling in Flood Zone 1. A small area to the east has been kept free from development and is in zone 2. The assessment notes no notable surface water flooding on the site with drainage ditches catching highway water run-off and surface water sewers to the west of the site, but identifies that seasonal water logging may result due to shallow groundwater levels which will need to be considered in the detailed design of the proposals. Intrusive ground investigation have been undertaken to inform the assessment which shows that infiltration rates are low but may support the disposal of site run-off by infiltration. However, given the shallow ground water a precautions assumption is made that attenuated discharge will be required and run-off can be

managed in attenuation facilities and discharged at a greenfield run off rate of 3.5 l/s. An outline surface water management scheme is proposed which shows open basins and tanks.

### **Transport Assessment**

The report acknowledges the historical permissions and the allocation of the northern part of the application site as a park and ride. It states that Derby City Council (DCC) have not pursued a formal Park and Ride based on lack of available funding and following considerations related to feasibility and viability. They note that the City Council were awarded funding for the design and implementation of a number of sustainable infrastructure projects including the park and ride or a bus hub facility at Boulton Moor. Further works commissioned by the City Council have resulted in their request that a Transport Mobility Hub (TMH) be provided as a form of mitigation rather than the park and ride facility. The report identifies the existing road network and requirements through planning obligations. It identifies the walking distances from parts of the wider Boulton Moor developments to the proposed district centre and the existing cycling and public transport services in the area and other sustainable means of transport options such as E-bike hire. Traffic surveys have informed the assessment, together with census records which details modes of transport to work and trip rate and traffic flow forecasts have also been used to identify the impact of the proposals on the road network including junction capacity. The assessment concludes that the site as access to sustainable modes of travel, safe and sustainable access to the site can be achieved and the residual transport impacts of the development are negligible.

This has been supplemented during the course of the application by additional reports into the modelling used, data sets and road safety audits.

### **Utilities Assessment**

The report identifies the current networks and operators for the various utilities in the area. In relation to electricity it notes that a number of sub-stations will be required within the development to provide low voltage supplies (estimations being 5 in total). Further off site network reinforcement will be required to support the development. In regard to gas it identifies there are medium and low pressure mains serving the existing area with sufficient capacity in the medium pressure main to the north of the site to serve the dull development. An on-site gas governor would be required to provide low pressure supplies. It notes that there is a potable water mains to the north of the site. Severn Trent have confirmed that it would be necessary to reinforce the existing supply to serve the development. Works are also in progress due to other strategic development in the area. It identifies existing telecoms cables to the north and west of the site and existing cabling going into the site to the north. It is noted that no sewers cross the site. A new pumping station and rising main have recently been constructed and has capacity for much of this development, alterations to the installed network or a separate connection may be required. The report notes that Severn Trent Water are yet to comment on the headroom at the receiving wastewater treatment works but capacity would need to be made available

### **Retail Impact Assessment**

This report notes that whilst the part of the site identified as the District Centre sits directly north of the Local Plan allocation, a District Centre in this location would perform the function intended by the Local Plan and there is no need to assess the relevant retail policy tests. However, the report undertakes an assessment of the proposals against the relevant policies. It sets out floorspace parameters for a number of units within Class E, including foodstore, local retail units and restaurants. It notes that it is primarily expected to perform a relatively localised function serving the needs of the urban extension and existing communities in the immediate surrounding area, but that there is also potential for the District Centre to serve a transient population associated with users of other facilities on-site. An analysis is also

undertaken of identified deficiencies in convenience provision in surrounding 'zones' and the report identifies a number of district and local centres of relevance including Alvaston, Chellaston, Borrowash and Spondon. An assessment of the scale of convenience provision required is also made. A sequential assessment is undertaken, whilst identifying that the needs of the new community should be adequately met in the most sustainable way and therefore should be located within the urban extension or its immediate vicinity. An impact assessment is also carried out which identifies that the majority of trade will come from the new dwellings within the urban extension but that there will be some 'claw back' of trade currently spent in centres outside of the area, although the report concludes that there is no evidence that the proposal will lead to significant adverse impacts on Town Centres in terms of investment, trade / turnover and overall vitality and viability

### **Air Quality Assessment**

The document identifies the potential risks to air quality as being those as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles travelling to and from the site during operation, as well as expose future residents to elevated pollution levels. Potential construction phase air quality impacts from fugitive dust emissions were considered to include earthworks, construction and trackout activities. The report considers that the use of good practice control measures would provide suitable mitigation for the development and impact would be at an acceptable level.

Potential impacts during the operational phase of the development were identified as being due to road traffic exhaust emissions associated with vehicles travelling to and from the site. Additionally, Dispersion modelling was undertaken to predict pollutant concentrations at sensitive locations as a result of emissions from the local highway network both with and without the development in place, which were verified using local monitoring data. The results demonstrated that predicted air quality impacts as a result of exhaust emissions associated with traffic generated by the development were not significant at any sensitive location in the vicinity of the site. The report also concludes that the results of the assessment demonstrated that predicted pollution levels were below the relevant air quality standards across the development.

### **Arboricultural Assessment**

The report identifies the existing trees within the application site, these being:

- two English Oak within the centre of the site (T6 & T8) are of moderate arboricultural quality, and capable of providing a significant long term contribution to the site's amenity (Category B)
- Chellaston Lane is lined by collections of mixed deciduous buffer planting and scrub; the most significant of these comprise G7 and G8, located to the northwest, which provide a dense screen of the highway from adjacent residential dwellings (Category B as a collective not on individual merit)
- To the southeast of Chellaston Lane, and adjacent to Shardlow Road and the A6, the buffer planting is less well established, formed of four groups (G1-G3 & G10) of semi mature plantings (majoring on Field Maple and Ash) (Category C, replaceable in a relatively short timeframe)
- To either side of Woods Meadow, one Laurel hedge (H1) and one ornamental group (G6) are set within the curtilages of residential properties. Neither affected by works.
- Trees associated with the agricultural use of the fields immediately to the southeast of Chellaston Lane. Trees are located on boundaries of fields, within ditch corridors and along south eastern boundary (two Ash, an Apple, a Silver Birch, a Goat Willow and a Crack Willow and intermittent scrub groups, establishing along the ditches (Category C)

- A single dead Hybrid Black Poplar (T9) on south eastern boundary to be removed or heavily pruned to minimise risk from limb failures.

The assessment concludes the arboricultural impact is limited to the removal of two parcels of semi mature broadleaf planting and partial removal of a third. All are considered to be of low quality. No veteran or protected trees are to be removed.

### **Noise Impact Assessment**

The document identifies the main existing noise sources as being from transportation (principally the A6) and comments that any noise associated with the proposed commercial part of the development should be controlled by condition. An assessment of existing noise levels has been undertaken to inform the report which identifies relevant guidance and variables which inform the assessment. The report identifies areas across the site and their associated noise levels and identifies where mitigation may be required through non-opening windows, or acoustically attenuated trickle ventilators. The report recommends mitigation through a bund along the A6 Derby spur southwards from Thulston Brook and a bund and/or acoustic barrier extending northwards from Thulston Brook.

### **Relevant planning history**

Boulton Moor Phase 1 (BM1): Outline and reserved matters

9/2005/0611: Outline application (all matters to be reserved except for means of access) for the construction of up to 1058 dwellings together with a primary school, retail provision, public open space, supporting infrastructure and associated landscape works - Not determined but allowed at Appeal January 2009

9/2010/1134: Extension of time limit for implementation of outline permission 9/2005/0611 including variation of conditions 1, 2, 5, 6 and 25 - Approved November 2011

9/2013/0802: Approval of reserved matters of 9/2010/1134 for the erection of 284 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phases 1a & 1b) - Approved April 2014

9/2015/0612: Approval of reserved matters of 9/2010/1134 for the erection of 113 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved January 2016

9/2015/1104: Approval of reserved matters of 9/2010/1134 for the erection of 145 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved December 2016

9/2017/0286: Approval of reserved matters of 9/2010/1134 for the erection of 119 dwellings (in lieu of 113 previously approved under 9/2015/0612) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved June 2017

9/2017/0822: Approval of reserved matters of 9/2010/1134 to facilitate the reorientation of 9 dwellings (previously approved under 9/2015/0612) (Boulton Moor Phase 1c) - Approved October 2017

9/2017/0826: Approval of reserved matters of 9/2010/1134 for the re-plan of part of the site and the addition of 1 dwelling (previously approved under 9/2015/1104) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved November 2017

9/2018/0606: Approval of reserved matters of 9/2010/1134 to facilitate the plot substitution of 10 dwellings, and re-siting of detached garage; in lieu of reserved matters approvals ref.

9/2015/0612, 9/2017/0286 and 9/2017/0822 (Boulton Moor Phase 1c) - Approved September 2018

9/2019/0658: Approval of reserved matters of 9/2010/1134 for the erection of 351 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phase 1e) - Approved November 2019

## BM2 Outline and reserved matters

9/2016/0166: Outline application (all matters to be reserved for the residential development for up to 550 units, a two-form entry primary school, strategic road links (connecting Boulton Moor Phase 1 and Snelsmoor Grange), public open space including children's play provision, surface water drainage and landscaping and ancillary supporting infrastructure (Boulton Moor Phase 2) - Approved July 2020.

DMPA/2022/0440: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to outline permission ref. 9/2016/0166) - Pending decision.

## BM1 & BM2: Infrastructure related applications

9/2008/0415: Construction of landscaped earth bund, pedestrian cycle bridge and extension of the Thulston Brook - Approved July 2008

9/2011/0783: Extension of time limit for implementation of outline permission 9/2008/0415 - Approved December 2011

9/2015/0998: Outline application (all matters to be reserved) for the creation of playing pitches, a sports pavilion, allotments, ancillary car parking and associated access, informal open space and landscaping (The Triangle, Boulton Moor Phase 1) - Approved July 2017

9/2015/0959: Outline application (all matters to be reserved) for the construction of a two-form entry primary school and associated access, car parking, outdoor play space, surface water drainage, services, lighting, signage and landscaping – Approved July 2017

9/2017/1216: Off-site highway improvements (pursuant to condition 25 of outline permission ref. 9/2010/1134) to include the construction of two roundabouts - Approved June 2018

9/2018/0017: Approval of reserved matters of 9/2015/0959 for the construction of a 2-form entry primary school and associated access, car parking, outdoor play space, services and landscaping - Approved April 2018

DMPA/2019/1119: Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2015/0998 - Pending decision

DMPA/2021/0922: The erection of a one form entry Primary School and associated facilities – Approved December 2021

DMPA/2021/1362: Creation of a 4-arm roundabout – Pending consideration.

## Responses to consultations and publicity

CCG – Request for contribution towards increased capacity at Alvaston Medical Centre Including its Aston on Trent Branch Surgery, Lister House at Chellaston and Chellaston Medical Centre.

Subsequent response (26/7/22) – updates to figures in line with build cost increases. We would like to discuss the potential for S106 funding to be used to provide additional capacity at any practice in the vicinity of the development, which may be through the extension of one of more existing site, or a new building.

The area is identified as a high priority in the Derby and Derbyshire CCG Primary Care Estates Strategy, which is primarily due to population growth in the area. We understand that this proposed development includes some or all of the land reserved under the S106 agreement for planning application 9/2010/1134, work to date looking at capacity in the area has identified recommendations which included replacing some of the existing sites with a new build, the practices are currently exploring more immediate options to increase capacity, once this review is completed we'll have a better idea of how much capacity that has created, which will feed into longer term plans. The site reserved at Boulton Moor will be one of the sites that

will be considered once this issue moves onto the business case development stage. In addition to requesting a capital contribution we would ask for confirmation of the impact of this proposed development on the land reserved under 9/2010/1134 including whether alternative land or an alternative capital contribution is proposed before a decision is made on this application.

Force Designing Out Crime Officer - There are no objections to the proposed uses indicated within this local centre, and whilst access only is to be determined at this stage, I wouldn't take issue with any of the indicative detail shown. The key design principles set out in the supporting design and access statement aren't contested, although there is no mention of estate rail within the boundaries section, which has been a feature of buffering between public and private/semi-private space across the wider masterplan site. I'd ask that this should continue, particularly for residential boundaries.

Environment Agency - No objections subject to conditions related to land contamination, underground tanks in association with the petrol filling station, foul and surface water drainage, compensatory habitat, design of the culvert and landscape management.

Development Control Archaeologist - The proposal site has a known archaeology potential of regional importance, forming part of an extensive later prehistoric and Romano-British landscape across Boulton Moor, with large-scale land divisions including pit alignments and field ditches, and smaller-scale foci of settlement activity that may have been shifting, seasonal and short-lived in character. This pattern has been gradually investigated and recorded across the neighbouring development sites at Boulton Moor, and it is likely that it continues within the current site. There is additional known potential in the current site in the form of a probable round barrow of prehistoric date identified from cropmarks on the site. The site forms part of the wider Boulton Moor outline scheme 9/2010/1134 granted consent in 2011. It was accepted at this time that the archaeological interest in the site could be addressed through a conditioned scheme of archaeological work for each phase, to comprise evaluation followed by mitigation recording for any significant remains. This has taken place across multiple phases of the Boulton Moor development, with evaluation trenching to identify foci of activity, and targeted area excavation to record the archaeological resource within these foci in advance of development. I recommend that the same approach is warranted on the current site. No objections subject to conditions.

Derby City Council – Highways - original objections to highways matters now largely addressed. Most recent comments can be summarised as follows:

- highlights the need for a pedestrian crossing on the northern arm of the proposed roundabout.
- acknowledge the current conditions for SG and BM2 are not aligned. The Current application must take note of these conditions. Any revision to the conditions will require a section 73 application.
- The baseline traffic data has undergone further analysis undertaken by NH. The discrepancy between the 2015 and 2021 surveys appears to be a result of the T12/ Infinity Parkway opening where the increase in traffic flows matches the reduction seen at the A6 Thulston Roundabout. As a result, the 2021 surveys are considered acceptable.
- The outstanding issues regarding the committed developed are now considered to be resolved.
- CCE have carried out a sensitivity test with more robust trip rate figures, trip types and distribution. DCiC are content that this sensitivity test provides a robust assessment of

the development proposals and that the development along with the BM2 / SG developments can all be accommodated within the proposed highway mitigation schemes.

- Whilst the 2021 surveys and subsequent modelling are considered acceptable and the results of the modelling appear to be logical, it must be noted that the surveys may still be affected by altered traffic patterns as a result of Covid. The remaining capacity in the junction must be safeguarded to ensure the future operation of the junction. The junction was designed to provide capacity and to act a favourable route for traffic from the Snelsmoor Grange and Boulton Moor developments to avoid large numbers of vehicle travelling south towards the Chellaston District Centre.

Development Management Officers - object to the proposals their comments can be summarised as follows:

- The allocation of this site reflects the strategy for South Derbyshire and Amber Valley, as part of the Derby HMA, to meet some of the City's housing needs outside of the City, as Derby cannot meet its objectively assessed housing need in full within its administrative area. This strategic approach is reflected in Policy CP1(b) of the Derby City Local Plan Part 1 (2017) as well as certain criterion of SDDC Policy H13 which seek to ensure that urban extensions deliver seamless cross boundary development
- We also recognise that the proposals for the new district centre supersede the original Park and Ride (P&R) concept within the Sustainable Urban Extension (SUE).
- Concerns that the location and nature of the proposed district centre, adjoining the A6 and the SUE entrance, will not fully achieve the best effectiveness of a District Centre. Policy H13(xiv) requires that "the location of the centre should be the focal point at the heart of the new community". The current proposal now shows the service facilities condensed to the north of the Thulston This results in the proposed district centre being further from the residential areas, within the City and South Derbyshire, and with less direct footway/cycleway links. This makes the facilities proposed, less easy to access by non-car modes with the resultant impact on accessibility and sustainability.
- intended to operate more as an out of town retail park or roadside facility, drawing customers from passing traffic. This change in the nature of the proposals, fails to accord with the vision for the district centre set out in the DFD (May 2019)
- Need to be party to any new S106
- No formal City Council decision has been taken on the park and ride site but it is the view of officers that it is no longer appropriate as the most effective way of mitigating transport impacts. Delivery would also be challenging due to the lack of any commuted sums within the existing agreement for construction or ongoing maintenance of the facility.
- We have however been seeking the delivery of a 'bus hub' integrated with the District Centre.
- the owners stand to make significant financial gains over and above what they would have done if the Park and Ride had been delivered. On this basis we feel that it would be appropriate to negotiate a contribution towards the delivery of the bus hub infrastructure in lieu of the lease of the Park and Ride land.

Derbyshire Wildlife Trust – Original comments requested additional information relating to biodiversity net gain.

Subsequent to the submission of this additional information no objections were raised subject to conditions relating to lighting, the provision of nest boxes and other mitigation and biodiversity enhancements.

County Highways Authority - Original comments noted that the residential trip rates used in the TA and in the Technical Note (E702 Transport Note 01) accompanying the application were lower than those previously used but that the roundabouts proposed have the capacity to accommodate the quantum of development assessed and, provided that any future development has a similar traffic generation to that assumed in the documents, it is not considered that there will be any highway safety issues.

It should be understood that the Highway Authority does not “agree” the contents of a TA or necessarily concur with every detail contained therein. However, it is considered that further work would not alter the conclusions to such an extent that an objection of highway grounds could be sustained.

Main concern relates to the provision for pedestrians and cyclists on Snelsmoor Lane north of the roundabout proposed to serve the residential development and on Shardlow Road to join that existing.

14/7/22 – Concerns raised by City Council Highways re trip generation should be addressed (they have been subsequently as summarised above). maintains the need for a pedestrian/cycle link from that existing on Snelsmoor Lane, north to the junction with Shardlow Road and west to the existing facilities and bus stop. There is an obvious, existing desire line and this will be exacerbated by the development.

10/8/22 – No objections subject to conditions. Comments can be summarised as follows:

- The question surrounding the traffic generated by the proposed development and the impact on the Snelsmoor Lane/Shardlow Road junction, in particular the triggers for the scheme to signalise the junction, have been resolved satisfactorily.
- Remain a number of outstanding issues, these can be addressed by condition, including the provision of a pedestrian/cycle link on the western side of Snelsmoor Lane, the need for a signalised pedestrian crossing on the northern arm of the proposed roundabout bearing in mind that this will be the main route between the district centre and the main residential area.
- It is noted that there are pedestrian/cycle route and crossing facilities are included in the scheme to signalise the Snelsmoor Lane/Shardlow Road junction, however, bearing in mind the inherent uncertainties surrounding the timescale for this coming forward and the intention to develop this site before the junction improvement works are triggered, the Highway Authority considers that providing safe and suitable route for all users is paramount at this stage of the development.
- Difficult to demonstrate an increase in demand for these facilities in relation to the stand alone roundabout application, the demand generated by the residential and district centre will generate significant cycle and pedestrian movements to and from the site and safe facilities to accommodate, and in fact to encourage, such forms of travel are essential.
- Any future reserved matters or full application for the district centre should include evidence to demonstrate that traffic generation by the proposed uses would not exceed that illustrated in the Transport Assessment for the current proposal.

Derbyshire County Council Strategic Planning Policy – Comments can be summarised as follows:

- Request for contribution towards primary and secondary education
- Consideration of broadband infrastructure
- Request for monitoring fees associated with any S106
- Comments on the impact on the setting of the Elvaston Castle site, but considers that any impact can be outweighed by sensitive design and that visual and physical connections through the site will help promote sustainable access.
- Comments on landscape impact but suggests that this can be outweighed again by sensitive design and the opportunity to significantly improve the green infrastructure across the site.
- Comments on the density of the development (which has been reduced) and housing need suggesting that the care home element of the scheme is acceptable and identifying a need for more independent living for young adults.
- Identifies the need for a travel plan and a travel plan bond to be secured through a S106.
- Identifies design considerations in relation to sustainable travel such as EVCP, appropriate cycle parking and investments in public transport.

LLFA - 6/12/21 - Request for further information to be submitted in relation to a number of points including hydraulic modelling, storage capacity, groundwater and allowances used.

Subsequent to this information being provided, no objections subject to conditions related to surface water drainage.

Planning Policy - Part of the application site falls within land allocated for residential development and supporting facilities, under Local Plan Policy H13, representing part of a cross-boundary sustainable urban extension. The part of the application site to the north of Thulston Brook lies outside the Policy H13 allocation and is protected by Local Plan Policy INF2 Part C for a potential new park and ride facility. Policy H13 Part B (xiii) requires the provision of 'a new District centre anchored by a supermarket and complemented by a range of smaller units providing for day to day needs of the wider neighbourhood'. A draft Boulton Moor Sustainable Urban Extension Development Framework document has been prepared pursuant to Policy H13 Part B (ii). Although not yet approved by all parties, the document establishes the disposition of land uses; landscape: movement strategy; urban design principles; character; green infrastructure and access arrangements to guide all future stages of development. The park and ride proposal identified in Policy INF2 had been intended to form part of the transport strategy for Derby City. However, following further assessment, Derby City Council colleagues have concluded that such a use would not be viable and the potential for the development of a Transport Mobility Hub in this location is being considered as an alternative. This is now being proposed by the applicant to form part of the District Centre, which is to be relocated from the original proposed position within the H13 allocated site to the land protected for the park and ride facility by Policy INF2. This District Centre will provide facilities and services, including an anchor supermarket and local retail units to provide the day to day needs of the wider sustainable urban extension. The use of this area to deliver a District Centre is consistent with the draft Boulton Moor Development Framework Document, which indicates that this location has been chosen partly on the basis that is likely to be capable of attracting passing trade, being visible from the A6 and main arterial routes. Need to consider S106 requirements. The current planning application site incorporates that part of the approved Boulton Moor phase 1 application site which is identified to include the community

centre and accordingly makes provision for such as part of the proposals. However it is understood that the specification for the centre included at Appendix 2 of the existing S106 agreement is now be out of date and may therefore need to be reviewed. Account will also need to be taken of the net gain in residential accommodation resulting from the new proposals to ensure that the community centre is of a design and scale commensurate with any additional demand arising.

In accordance with Policies H13 Part B (xi) and INF2 Part B (i) the proposals incorporate connections to the existing and proposed cycle and pedestrian networks within and beyond the sustainable urban extension site. These include links enabling connections to the south and west and to the shared use path that begins on Shardlow Road and continues alongside the A6 towards Raynesway via the new Chellaston Lane/ Shardlow Road highway junction to be provided as part of the Boulton Moor phase 2 outline planning consent. It will be important to ensure that all shared paths have a bound surface, are lit and signposted and measure at least 3m in width and that appropriate arrangements are made for the future maintenance of all parts of the network. All shared path highway crossing points, including those at the proposed District Centre highway access point roundabout junction at Chellaston Lane, should be designed to safely accommodate both pedestrians and cyclists. The District Centre should be designed to allow safe and convenient access to and between services and facilities on foot and by cycle.

Local Plan Policy H13 Part B (xiii) states that: 'A new district centre shall be provided, anchored by a supermarket complemented by a range of smaller units providing for day to day needs of the wider neighbourhood' (xiv) states 'the scale of the anchor store will be commensurate with the needs of the new community, the level of growth anticipated and the need to maintain the vitality and viability of other centres. The location of the centre should be the focal point at the heart of the new community'; Policy RTL1 Part A 2 identifies a proposed local centre at Boulton Moor.

To demonstrate policy compliance the applicant has submitted a Retail Assessment. This considers the appropriateness of the retail provision, looks at the proposals in relation to the policy objectives of the National Planning Policy Framework (NPPF) sequential approach and assesses the proposed retail floorspace against the NPPF impact tests. It does so with reference to the Derby Retail and Centres Study (RCS), July 2019.

The assessment includes a calculation of the level of convenience and comparison expenditure likely to be generated by the Boulton Moor sustainable urban extension. It concludes that a store of 2000sqm gross floor area will be commensurate with providing for the shopping needs of the urban extension alone, but may also potentially help to address existing retail floorspace deficiencies in the east and south of Derby, as identified in the RCS. To assess impact on the vitality and viability of other centres a quantitative assessment of trade diversion from other centres has been undertaken following a standard process. The assessment concludes that by clawing back locally generated expenditure to centres within the catchment the establishment of the District Centre will lead to more sustainable shopping patterns for existing and future residents. The applicant's methodology appears to be sound and the estimated impact on existing investment or the vitality or viability of other centres seems to be within the limits of acceptability.

National Highways - (6/12/21) Pending additional information being submitted for approval to address concerns, National Highways recommends that the application not be approved for a period of three months from the date of this notice. makes a number of comment and requests for further information related to: survey data; discrepancies in estimated trip generation detail;

need to also include committed developments in data; and in relation to the proposed acoustic barrier / noise bund along the eastern site boundary adjacent to the A6, any geotechnical risk from the acoustic barrier / noise bund for this part of the development needs to be demonstrated by DMRB CD 622 compliance (Managing Geotechnical Risk). Details of the noise bund / barrier including cross sections from site boundary to edge of carriageway, foundation details and including CD 622 certification should be provided for review.

Subsequent to further discussions and sensitivity testing National Highways raise no objections subject to a condition relating to the bund adjacent the A6.

East Midlands Airport – No objections subject to conditions relating to light spillage, glare design requirements to reduce the potential for large nesting birds which could increase birdstrike.

SDDC Conservation Officer - There is a large degree of separation between the Heritage Assets in the vicinity of the site (Elvaston Castle, the Registered Park and Garden and associated heritage assets). This separation comprises the A6 and a dense tree belt in the RP&G, which even during the winter months vastly reduces visibility from the RP&G and the site. The site itself appears largely scrub land, with no historic landscape value to the heritage assets in the vicinity of the site.

SDDC Landscape Officer – No objections subject to conditions requiring landscaping plans and biodiversity enhancements.

SDDC Tree Officer – No objections subject to conditions requiring works to be undertaken in accordance with the information submitted including protective barriers. Recommendation made regarding Tree Preservation Orders.

SDDC Environmental Health Officer – No objections subject to conditions relating to noise from the development, traffic noise, air quality, land quality and the construction phase.

SDDC Strategic Housing Officer – Would like to see an extra care scheme delivered on the site (mixed tenure) and affordable bungalow provision.

Elvaston Parish Council – (16/12/21) – Comments summarised as follows:

- Request for this to be a full committee decision, to be taken in conjunction with the planned submission for ECCP in relation to the cumulative impact of two major planning applications within the same parish.
- Request to extend consultation deadline
- Serious safety issues have been identified by RoSPA in relation to the Snelsmoor/Chellaston Lane.
- Acoustic barrier to be installed on the western side of the A6, any acoustic barriers must look at environmental implications to future tree loss, and cumulative impact of ECCP planning application.

(14/6/22) – Comments summarised as follows:

- support additional infrastructure as part of the ongoing development of Boulton Moor
- residents have been waiting in excess of 10 years for the installation of a post box.
- A primary school is still not available, this has to be a priority along with healthcare provision such as doctors, dentist etc.
- abhorrent to consider the provision of fast food outlets and restaurants ahead of basic amenities such as education and healthcare provision.

- A community facility is promised on land less than 1.5 miles away from this planned district centre and will be accessible by a footbridge for all residents.
- Several parts of this estate remain unadopted by DCC Highways due to a lack of consistency by the developer, issues yet to be rectified.
- Play provision for children is in-situ and remains fenced off
- There are no public transport links in place despite the addition of painted road markings to indicate a bus service.
- Residents of this estate are, unless drivers, cut off and unable to access basic provision and it is the request of the parish council that the current planned works of a school, healthcare provision and basic amenities are met prior to this district centre being approved for completion.

Four comments have been received from members of the public. 1 supports the provision of the district centre and community building, 1 supports some aspects of the proposals but not the petrol station, junction or restaurants, 1 objects to the junction and another objects to the PFS and is supportive of the electric hub but not with hydrocarbon connections.

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

#### The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 Sustainable Growth Strategy, S2 Presumption in Favour of Sustainable Development, S3 - Environmental Performance, S4 - Housing Strategy, S6 - Sustainable Access, S7 - Retail, S8 - Greenbelt, H1 - Settlement Hierarchy, H13 - Boulton Moor (South East of Derby), 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 Travel, INF5 - East Midlands Airport, INF6 - Community Facilities, INF7 Green Infrastructure, INF9 - Open Space, Sport and Recreation

Local Plan Part 2 (LP2): SDT1 - Settlement Boundaries and Development, BNE5 - Development in Rural Areas, BNE7 - Trees, Woodland and Hedgerows, BNE10 - Heritage, RTLE1 - Retail Hierarchy

#### The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)  
 Affordable Housing Supplementary Planning Document (SPD)  
 Section 106 Agreements: A Guide for Developers Supplementary Planning Document (SPD)  
 Trees and Development Supplementary Planning Document (SPD)

#### The relevant national policy and guidance is:

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

### **Planning considerations**

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

Principle of development;  
 Landscape and Heritage;  
 Ecology and nature conservation;

Water environment and drainage;  
Transport, Access and Connectivity;  
Air quality and noise;  
Retail impact;  
Design and layout parameters; and  
Planning obligations and conditions

## **Planning assessment**

### Principle of development

The site forms part of the LP1 housing allocation set out under policy H13. BM1 (the area within the site to the south of the Thulston Brook) has previously been granted planning permission (ref: 9/2010/1134) for the construction of up to 1058 dwellings with associated infrastructure in the form of a school and retail within the wider SUE.

The northern extent of the site (land north of the Thulston Brook) is identified for a Park & Ride site under Policy INF2 of the LP1 and was safeguarded for this use in the Boulton Moor Phase 1 permission, to be allocated to Derby City Council through a S106 Agreement. It is understood, that whilst a formal council decision has not been taken on this site, it is the view of Derby City Officers that such a use is now not considered suitable due to a lack of available funding and following considerations related to feasibility and viability. Recognising the need to support a shift towards sustainable travel modes and further to discussions with the City Council the proposed development, north of the Thulston Brook includes a Transport Mobility Hub which will offer sustainable initiatives such as an electric car club spaces, e-scooters and e-bikes charging points, alongside a petrol filling/electric charging station. This will form part of a District Centre with retail opportunities, including a supermarket, retail units, restaurants, units with 'Drive-Thru' capability and nurse care provision. A residential element is also proposed within this area.

The NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It goes on to advise that 'the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan..... permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed'.

The site lies in a sustainable location in principle and could assist the strategy for housing delivery set out in policies S4 and S1, in the delivery of housing across the Plan period and maintaining of a 5-year supply of housing land. The expansion north of the Thulston Brook provides an opportunity to provide for more sustainable travel methods as well as a retail hub which will ensure a more sustainable pattern of development for existing and future residents of the SUE.

Policy H13 sets out a series of criteria against which the proposals must be assessed, in so far as relevant to the phase concerned:

- i) That [the Councils] and developers continue to work together to ensure that the proposals offer a holistic vision for an urban extension which is delivered in a comprehensive manner across the local authority boundaries. Delivery mechanisms will need to be established to ensure the necessary level of coordination to effectively deliver the infrastructure and facilities to support the development;
- ii) A jointly prepared development framework shall be produced;
- iii) A cross boundary approach to housing design, layout, density, open space and landscape shall be developed/undertaken;
- iv) A cross boundary approach to the provision of affordable housing shall be developed/undertaken;
- v) A plan of phasing for the delivery of this cross boundary site shall be submitted with any application;
- vi) The provision of sustainable transport measures, including contributions to the delivery of a new park and ride and bus service to serve the wider urban extension site;
- vii) Highway works, including improvements to Snelsmoor Lane to ensure that the impact on its junctions with the A6 and High Street are satisfactorily mitigated;
- viii) Flood mitigation measures, to address fluvial and surface water issues relating to the Thulston Brook watercourse and ground water levels;
- ix) An appropriate flood risk assessment shall be submitted with any application;
- x) Improvements to existing green infrastructure shall be made, along with the provision of new green infrastructure on the site;
- xi) High quality pedestrian and cycle routes within the site and links between these and existing and proposed routes and green spaces beyond the site;
- xii) A significant green buffer and landscaping boundary on the outer edges of the developments, to help soften the housing developments impact on the surrounding countryside, create a new defensible boundary and help mitigate the urbanising impact of new development upon Derby City's Green Wedge;
- xiii) A new district centre shall be provided, anchored by a supermarket complemented by a range of smaller units providing for day to day needs of the wider neighbourhood;
- xiv) The scale of the anchor store will be commensurate with the needs of the new community, the level of growth anticipated and the need to maintain the vitality and viability of other centres. The location of the centre should be the focal point at the heart of the new community;
- xv) The provision of a two form entry primary school to cover phases 1 and 2, with separate primary provision to serve the site in Derby;
- xvi) The urban extension as a whole shall protect and enhance Elvaston Registered Park and Garden (including its settlement), other heritage assets and will contribute towards softening the settlement edge around Boulton Moor;
- xvii) Any built development to the east of the A6 and west of the B5010 shall be in accordance with Green Belt Policy;
- xviii) In order to safeguard the operation of the Strategic Road Network an assessment of the impact of development traffic will be carried out and developer contributions sought.

As required, a draft Boulton Moor development framework document (May 2019) has been prepared by Barton Willmore (representing the landowners in South Derbyshire) and RPS (representing the land owners in Derby City). Although this has not been adopted it provides an approach for the delivery of the Boulton Moor SUE.



**Extract from DFD**

The above extract demonstrates that there has been consideration of the district centre spanning the book, located such that it would maximise its draw through a road frontage location. The proposals show other than the community centre the other non-residential uses would now be located north of the brook, with bridges providing pedestrian and cycle access points. Whilst this would shift the district centre slightly further away from the residential developments to the south and west, it is not a significant distance, additional sustainable travel routes would be provided and it would also be closer to/provide easier access for future residents of BM3.

Whilst the proposals are not considered to be wholly in accordance with the development plan it is recognised that Park and Ride sites are by their nature land hungry uses of land which the City Council no longer considers to be a viable option to manage and support. They consider ways to improve sustainability of the location lie in a new multi modal transport hub which would support the intention behind its allocation within INF2 to promote more sustainable traffic movements beyond the site. This would be further supported by safe and secure pedestrian and cycle routes through the development of the wider SUE. As such it is considered that the proposals could be acceptable, subject to consideration of the detailed elements below.

**Landscape and Heritage**

Policies BNE2 and BNE10 state that developments which affect heritage assets will be expected to protect, conserve and enhance the asset and its settings in accordance with national guidance. Policy BNE4 advises that character and local distinctiveness should be protected through careful design of developments which retain key components such as mature trees and topographical features.

The Heritage Statement submitted with the application provides a statement of significance and an impact assessment of the proposals on the setting of Elvaston Castle Registered Park and Gardens (RPG), the castle itself and ancillary listed buildings, the Church of St Bartholomew and the Listed Mile Post at SK399 321.

Due to its relationship with the old London Road, marking the distance along the A6 between Derby and London it is not considered that the proposals would have any impact on the Listed Mile Post.

In regard to Elvaston Castle, the RPG and ancillary buildings and the Church of St Bartholomew. The RPG form the setting to the listed buildings within it, with vistas and avenues formed within towards the castle itself. The boundary is substantially screened by heavy vegetation. The immediate setting beyond this is agricultural land. Its wider setting includes the urban conurbations of Boulton Moor and Alvaston and the A6 with its associated infrastructure. It is considered that this hard barrier creates a substantial visual break in the setting of the assets to the east of this heavily trafficked highway, such that with the addition of landscaping buffers to the boundaries of the site and a scheme of good quality design there would be no discernible impact on the setting of these heritage assets.

Whilst there has not been an assessment on known or unknown archaeological features within the site the County Council Archaeology Officer is content, due to previous investigations around the site to inform the numerous applications at Boulton Moor that a condition requiring a Written Scheme of Investigation is sufficient in this instance.

In respect of 'Landscape Character', nationally the site lies within the Trent Valley Washlands described as 'a distinctly narrow, linear, low lying landscape, and is largely comprise of the flat flood plans and gravel terraces of rivers'. Key opportunities for development in this area are to strengthen and enhance character and ecosystems, heritage, wildlife habitats and woodlands and the creation of multi-functioning green infrastructure. More locally the site lies within the Derbyshire LCA 'Lowland Village Farmlands' which is described as 'open, gently rolling lowland landscape with the lower slopes and terraces of broad flood plains'. The site is strongly influenced by major infrastructure, enclosed on three sides by roads and further to the west with large areas of residential development. Whilst currently undeveloped it is viewed very much in the context of the SUE, rather than the rural, agricultural setting to the east of the A6. There are three trees within the site along the brook and these are proposed to be retained with some vegetation along the boundaries of the site. There are no public rights of way through the site, although as the site is relatively flat with limited screening there is short distance visibility across the site from immediately outside. It is considered that the site is currently of low landscape value for these reasons, with the site relating more strongly to the settlement edge to the west, rather than the more rural, agricultural landscape to the south and east, separated by the A6 and more dense vegetation. That said there will be some impact of the proposals on landscape setting, however it is considered that this could be appropriately mitigated by good quality design, effective landscaping, green infrastructure and the use of street trees to filter views. Users of Chellaston Lane would be those most significantly affected as the open views would be lost to development. This is unavoidable for any form of development of undeveloped sites, however with effective landscaping and appropriate design it is considered that this would mitigate the negative effects on the character of the development as much as possible.

The land currently consists of approximately 12ha of grade 2 and 3a agricultural land. This is very good/good quality agricultural land in regard to Best and Most Versatile (BMV) land classifications. The thrust of current policy is to direct development to poorer quality land, however, given that the site is allocated within the LP and the Town and Country Planning (Development Management Procedure Order) (DMPO)(2015) does not require LPAs to

consult with Natural England in regard to losses of less than 20 hectares or where the development is allocated in the LP, whilst unfortunate it is not considered that this would be a reason to refuse the application.

On balance, having regard to the consented permission for residential development to the south of the Thulston Brook, the comments of statutory consultees, the lack of vegetation clearance required within the site and the ability to control design through conditions, it is considered that the proposals comply with the relevant local and national policy framework.

### Ecology and nature conservation

The most appropriate policies and guidance to consider are BNE3, BNE4 and BNE7 of the LP1 and LP2. These state that the LPA will support development which contributes to the protection, enhancement and management of biodiversity and delivers net gains and that where development is proposed that could affect trees which are important in terms of their amenity developers will be expected to demonstrate that the layout has been informed by appropriate reports and where necessary adequate protection measures have been put in place.

The application has been supported by a number of documents including: a Biodiversity Net Gain Assessment Report and accompanying explanatory letter; an Ecology Report and an Arboricultural Impact Assessment.

The Arboricultural Impact Assessment concludes that the impact of the proposed development would be the removal of two parcels of semi mature broadleaf plantings and the partial removal of a third. All are low arboricultural quality (Category C) and are required to enable the realignment of Chellaston Lane to facilitate the construction of the proposed roundabout access into the site. No veteran or protected trees will be removed or detrimentally affected to accommodate the proposals. The assessment advises that removal is only recommended where necessary and unavoidable or where the amenity value of the tree would be reduced by the proposals. It makes recommendations for hand excavation where works are proposed within the RPA of one tree to minimise disturbance (noting that the species, a Goat Willow is tolerant to disturbance), pruning works, the removal of a dead tree and protective barriers and ground boarding in respect of retained. It notes the proposals to include a linear open space adjacent to the Thulston Brook and states that meaningful tree planting of large canopy species can be accommodated in these locations which would mitigate the limited tree removals. The Council's Tree Officer does not object to the proposals and recommends that the mitigation measures set out in the report and the tree protection plan details are secured by planning conditions.

Appropriate landscaping of the site will be a key to making the development successful and needs to incorporate appropriate mitigation planting of its boundaries to provide a buffer, enhancements of the green corridor which follows the brook through the site and appropriate tree planting along main streets to provide tree lined corridors and frame key vistas, helping to form a sense of place.

The Ecology Report supports previous works undertaken in respect of other applications at the wider development with further badger, bat and habitat surveys of the field margins, scattered scrub, hedgerows, trees and brook. The key habitats of value were the Thulston Brook and associated mature trees, hedgerows and field margins and boundary hedgerow H1 (which is to be retained around the south/eastern boundary). Thulston Brook will be diverted to remove the large right-angled. Recommendations are made to enhance the ecological value of the brook. Badger Activity is limited to foraging and there is limited use by bats, although mitigation to

retain foraging/commuting habitat is recommended.

The Biodiversity Net Gain Assessment using Biodiversity Metric 3.0 is considered to have been undertaken in accordance with best practice. The assessment of pre-development condition used the Phase 1 habitat survey and post-development was based on the illustrative Landscape Strategy Plan provided to support the application. The existing habitat consists largely of cultivated arable fields bordered by uncultivated field margins and 0.4279ha of semi-improved grassland of low distinctiveness. Linear features include 0.73km of species-poor hedgerow and 0.437km of open stream where Thulston Brook dissects the site. The proposals would introduce SUDs which are shown to be planted with wildlife beneficial species, wildflower meadow, native hedgerow and ornamental and native trees. Changes to the Thulston Brook will provide improvements to biodiversity through increases the different features such as pools and riffles. The development will achieve a net gain in terms of habitat, hedgerow and river units (15.31%, 29.84% and 36.77%).

DWT consider the proposed creation and enhancement habitats are achievable at the site and that the creation of species rich grasslands, new hedgerows and enhancement of the stream should ensure that new opportunities are established for wildlife as part of the development. It is considered that the creation, enhancement and management can be secured by condition.

Further conditions are recommended by DWT to ensure that species specific enhancements are secured such as integral nest boxes at a ratio to dwellings proposed of 1:1, external nest boxes at the same ratio, integral nest sites for swifts is through hollow chambers fitted into the fabric of a building while in construction and other measures for bats, hedgehog and insects. A condition for a wildlife friendly lighting scheme could also be attached to an permission to ensure that any impact on nocturnal wildlife is minimized.

Overall, having considered the documents submitted and the comments of consultees it is considered that there are no features of ecological value that would preclude development of the site and the key features of interest could be adequately retained, safeguarded and enhanced within the site with the use of conditions to secure mitigation and protection as required and a successful landscaping scheme, which provides mitigation and enhancement of the whole side, including its boundaries and streets as well and open spaces.

### Water Environment and Drainage

Policy SD1 states that the Council will support development that does not lead to adverse impact on the environment, or amenity of existing and future occupiers. Policy SD2 advises that a sequential approach to flood management should be taken, developing sites at the lowest risk of flooding first. Developments should be resilient to flooding by design, incorporate mitigation and not increase flood risk to others. Suitable surface water measures shall be incorporated which mimic natural drainage patterns. Policy SD3 requires developments to provide adequate water supply, sewerage and drainage infrastructure.

The site lies largely in Flood Zone 1 (lowest likelihood of flooding) with a small area lying in Flood Zone 2 to the east. This is considered to be associated with the low lying land where the Southern Brook meets the Thulston Brook upstream of the A6 and is shown on the illustrative master plan as being kept free from development. The Thulston Brook crosses the site, splitting it into two land parcels and is a designated Main River. It has a notable kink towards the middle of the site, which will be removed and the brook realigned (consented works by the EA). It is considered that through appropriate design and mitigation that the realignment of the river could provide for improvements to the biodiversity and hydromorphology of the brook. Records show that there has been no notable surface water flooding at the site. Investigations

undertaken suggest that the geology of the site may support some seasonal water logging and shallow ground water levels. It is considered that the detailed design of the proposals can manage this through setting appropriate external levels and directing any water towards the watercourses within and around the site. Whilst the site may support some infiltration, due to the potentially shallow groundwater a precautionous assumption has been made with the proposals that attenuated discharge will be required and the illustrative masterplan shows space for this, with open basins proposed to the south of the brook and a mix of basins and tanks to the north. Any run-off can be discharged at a greenfield run-off rate of 3.5 l/s. It is considered that maintenance of the surface water systems should be offered to Severn Trent (for the residential elements) but in the event that these are not taken up the long-term arrangements for these can be secured through a S106 Agreement.

It is understood that capacity works to increase water supply in the area are currently in progress. A wastewater pumping station and outgoing rising main were required by earlier phases of the development. The current proposal increases the form of development proposed in this location and alterations maybe required to the installed network or a separate connection to STW network. No comments have been received by STW on the proposals. However, it is considered that conditions can secure appropriate provision.

The LLFA and EA raise no objections to the proposals and information submitted subject to conditions to control the design and rates of surface water drainage, infiltration and underground tanks associated with the petrol filling station to ensure that pollutants do not infiltrate ground water in the area.

#### Transport, Access and Connectivity

The NPPF states that in assessing applications for development it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access can be achieved, the design of streets and parking areas reflect current design codes and any significant impacts from the development on the transport network can be effectively mitigated. Development should only be refused on highways grounds if there would be an unacceptable impact on safety or the impact on the network would be severe. Policy INF2 states that traffic generated by development should have no undue impact, that appropriate provision should be made for pedestrians, cyclists and public transport and car travel should be minimised.

The applicants have submitted a Transport Assessment, which includes a framework travel plan. This document uses modelling (the same as that used for BM2) to assess the impact of the development on the surround road infrastructure, noting existing conditions, trip rates and traffic flow forecasts ad junction capacity. This modelling concludes that:

- The existing layout could accommodate the remaining development at the extant Boulton Moor 1 development plus all or phases of the proposed development until the committed development (Option 1b) improvements to the A6 (T) Thulston Roundabout are delivered by the Boulton Moor 2 and Snelsmoor Grange developments;
- The existing Chellaston Layout / Shardlow Road layout and A6 (T) Option 1b layout could accommodate the proposed development and the full committed developments (Boulton Moor 1, 2 and Snelsmoor Grange) in 2028 without the need for the Chellaston Lane / Shardlow Road improvements; and
- The full committed development improvements can accommodate the full development forecast without the need for further mitigation.

This has been reviewed by Derby City and County Councils and National Highways. Concerns were originally raised, and further information requested in respect of the modelling and the implications of different forecasts. The applicant has been in discussions with the Highways Authorities to understand their comments and the additional information/modelling required. Further information to support the proposals have been submitted in respect of a walking and cycling strategy, A road safety audit and response to comments made in the form of a Technical Note.

It is acknowledged that the current conditions for SG and BM2 are not aligned. BM2 does not require an interim arrangement for traffic mitigation whereas SG does. The plans submitted with this application show the island with the existing road arrangement and with the road improvements required by the BM2 condition. DCiC have advised that they were not party to conversations regarding removing the interim scheme and as a result the SG conditions were developed based on the universal agreement at the time. Any revision to the conditions will require a section 73 application. Notwithstanding this they do not raise objections to the mitigation measures proposed.

Furthermore, DCiC and National Highways are of the view that after further analysis the baseline data (2021 surveys) are acceptable, that any outstanding issues regarding the committed developed are resolved, that the sensitivity testing undertaken provides a robust assessment of the development proposals and that the development along with the BM2 / SG developments can all be accommodated within the proposed highway mitigation schemes.

Derby City comment that whilst the 2021 surveys and subsequent modelling are considered acceptable and the results of the modelling appear to be logical, they may still be affected by altered traffic patterns as a result of Covid, which have a potential to change. They comment that the remaining capacity in the junction highlighted by the modelling must be safeguarded to ensure the future operation of the junction.

Derbyshire County Council have requested a full travel plan and bond and it is considered that these matters can be dealt with by condition and part of any Section 106 Agreement.

It is therefore considered that the proposals would not have a severe impact on highway safety in accordance with the NPPF and INF2.

The indicative plans show interconnectivity with pedestrian and cycle routes through the site, following the course of the Thulston Brook linking the crossing point over the A6 with land at the Triangle and out onto Chellaston Lane and over Chellaston Lane into Woods Meadow. Further information has been provided during the course of the application also in the form of a Technical Note which describes how the DC connects with development to the south and the existing provision on Shardlow Road.

The northern extent of the proposed District Centre (DC) works have been designed to tie in with the existing road layout and also in the future with the committed off-site works secured as part of the BM2 and SG developments. These committed works include shared footway / cycleway infrastructure, including controlled crossings at the junction on Shardlow Road (east) and Chellaston Lane. The trigger point for these works is the 450th unit of the proposed BM2 developments and therefore the DC roundabout will be constructed prior to the committed development scheme. This will leave a period of time where there is no footway / cycle provision on Chellaston Lane north of the BM1 roundabout. The proposal is to provide a footway / connection up to the proposed bus stops on Chellaston Lane. This will allow the committed development works to tie in when they are provided. Until the committed

improvements are provided the applicants had proposed that pedestrians and cyclists would use Woods Meadow which provides a route to Shardlow Road and the wider network.

It is not considered that this would be acceptable in providing sustainable, direct and continuous routes for pedestrians and cyclists. Both Highways Authorities highlight the need for a pedestrian crossing on the northern arm of the proposed roundabout. The applicants have acknowledged this and have advised that they would be willing to provide this. This can be controlled by a condition.

Connection to the south of the site is secured by previous consents, however given the proposed amendments to the land to the south as a result of this application it is considered appropriate to secure the provision of a shared pedestrian / cycle link.

The illustrative layout shows bus access/ route on the main spine road, indicative locations for bus stops and pedestrian/ cycle connectivity through the site and linkages into existing paths/routes. It is considered that this demonstrates that appropriate provision can come forward as part of the proposals. A condition to secure the connectivity required to make the proposals successful should be attached to any permission. This should include the requirement for a 3 metre wide shared pedestrian and cycle routes through the site and two crossing points over the Thulston Brook.

It is considered that appropriate provision for parking and servicing can be made come forward in regard to the different elements of the scheme through the submission of reserved matters applications.

According it is considered that the proposals would accord with the relevant highways policies.

#### Air Quality, Waste, Noise and Contamination

Policy SD1 states that the Council will support development that does not lead to adverse impact on the environment, or amenity of existing and future occupiers. In assessing impact consideration should be given to Air Quality Management Areas (AQMAs) and the need for a buffer between conflicting land uses. Policy SD4 states that planning permission should only be granted on potentially contaminated land where it has been demonstrated that the scheme will incorporate necessary remedial measures to protect human health and the environment.

The proposals are supported by a Noise Impact Assessment, Air Quality Assessment, Energy and Sustainability Report and Desk Based Contamination Assessment.

The Noise Assessment recognises that the site is exposed predominantly to noise from transportation sources from road traffic on the roads around the site, especially the A6. It also recognises that noise from the new commercial elements of the scheme proposed can be controlled by conditions such that it does not adversely impact existing or new noise sensitive (residential) receptors in the area. The proposals to inform this report include a bund along the A6 Derby spur southwards from Thulston Brook and a bund and/or acoustic barrier extending northwards from Thulston Brook for a length of approximately 50 m, extending to approximately 2.5m in height, with a short section of acoustic fencing joining the two bunds over the brook. Some additional mitigation measures are required to a small number of properties (largely contained to dwellings to the north of the brook) would require acoustically attenuated trickle or similar ventilators. SDDC's EHO has assessed the proposals in regard to noise impacts and recognises that the impact of traffic noise on the noise sensitive elements of the development will ultimately be determined by the final layout and therefore detailed noise mitigation conditions cannot be established at outline stage. It is recommended that a

condition be applied which establishes the need for a final noise mitigation plan to be approved as reserved matters. Conditions are also recommended in respect of fixed plant associated with commercial elements of the scheme and delivery noise associated with vehicles servicing those elements of the proposals. The need for a bund/acoustic barrier will also have visual implications which will need to be considered once the detailed layout is formed, whilst recognising that some form of attenuation is required in this location. A barrier would form a stark, visual entrance to the site in a prominent location. A landscaped bund would have less long term maintenance implications and would offer a softer screen to the development and assist in achieving xii and xvi of Policy H13.

The AQMA recognises the potential impacts the proposals could have as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles travelling to and from the site during operation, as well as the potential to expose future residents to elevated pollution levels. In relation to construction air quality impacts (associated with dust from earthworks etc) it is considered that appropriate mitigation can be put in place. Potential impacts associated with road traffic exhaust emissions were tested using modelling at sensitive areas. The results demonstrated that predicted emissions were not significant at any sensitive location in the vicinity of the proposals and that predicted pollution levels were below the relevant air quality standards across the development.

Conditions to secure electric Vehicle charging points across the site at both the commercial and residential elements will assist the long-term commitment to reduce pollution associated with exhaust emissions. Further to this, conditions to control odours and emissions associated with the commercial elements of the site will help to control implications for air quality.

In regard to energy consumption and sustainability, the information submitted to support the application sets out what the applicant considers to be design principles underlying the development including considerations of the existing landscape and natural environment, a commitment to sustainable design and construction principles and a commitment to the reduction of carbon emission through the promotion of sustainable transport and consideration of solar gain and energy reduction through the design and layout of the development, using a 'fabric first' approach.

The Councils EHO also comments that:

*The Council is committed to seek to make South Derbyshire carbon neutral by 2050. Currently 905 kilotonnes of carbon are emitted within the district, of which 109 ktonnes come from residential properties and a further 84 ktonnes from commercial and industrial buildings. This development will directly contribute to significant further carbon emissions and therefore will directly prejudice the Councils carbon reduction commitments.*

*I note the content of the Energy and Sustainability Report however it does not contain any specific or quantifiable measures and this must be addressed either at outline or reserved matters.*

*Respirable particulate emissions - In November 2021 the Environment Act was finally enacted. Part 1 Chapter 1 of the Act has introduced a duty on the government to bring forward at least two air quality targets that will be set in secondary legislation, one of which will be a target to reduce the annual average level of fine particulate matter (PM2.5) in the atmosphere. To date the government have not set out exactly what these targets will be or on what basis they will be set.*

*The September 2021 the World Health Organisation (WHO) published Global Air Quality Guidelines which included setting a new guideline of an annual mean concentration of PM2.5 not exceeding 5 µg/m3.*

*There is no current statutory standard for PM2.5 in the UK and therefore secondary legislation under the Environment Act will introduce targets, and by inference require actions, which do*

not currently exist.

Based on existing predictions by DEFRA, the current (2022) background concentration of PM2.5 at the location of the proposed development site is 8.55 µg/m3 (i.e. 71% above the WHO guideline).

This development will contribute, through heating and transport emissions, additional PM2.5 concentrations and will therefore contribute to further exceedances of the WHO Air Quality Guideline for PM2.5.

There is a need on all new developments to consider the impacts of the proposals on carbon emissions and the implications of the Environment Act and forthcoming targets. The proposals to reduce the impact of the development through a fabric first construction approach are noted, as is the intermodal transport hub and the implications of this. However, to ensure that quantifiable targets are achieved a condition is recommended to ensure that the development assists the Council in its commitment to be carbon neutral by 2050.

The Contamination Assessment submitted with the report notes that the site historically has been predominantly fields used in agriculture. The potential on-site sources of contamination are therefore considered to come from farming and waste treatment activities. A number of potential off-site sources of contamination have been identified within 250m of the site, though given these historical site circumstance it is considered that there is a low to medium risk of encountering contamination during development. Further site investigations are recommended prior to the commencement of development, and it is considered that subject to these being undertaken and appropriate mitigation measures if any are identified as necessary the development would not result in any risk to human health.

In considering the above the proposals would be in accordance with the relevant policies and guidance, subject to conditions to control and mitigate any impacts.

### District Centre

The NPPF states that retail proposals not in accordance with an up-to-date plan or in a local centre should be subject to a sequential test and proposals over 2,500m<sup>2</sup> should also be supported by an impact assessment. Only where it fails a sequential test or will have a significant impact on the vitality and viability of existing centres should permission be refused. Policy RTL1 identifies Boulton Moor as a proposed local centre.

The proposals include a number of uses, including restaurants with drive-thru capabilities, a supermarket and local retail units including use as a nursery. These would largely consist of convenience provision with the potential to have some comparison provision, which tends to come with supermarkets. Floorspace parameters are set out in the Retail Assessment, submitted to demonstrate policy compliance and impact.

<b>Proposed Use</b>	<b>Use Class</b>	<b>Maximum Floorspace (sqm gross)</b>
Foodstore	Class E(a)	2,000
Local Retail Units	Class E(a)-(f)	700
Restaurants	Class E(b)	440
<b>TOTAL</b>		<b>3,140</b>

## Extract from Retail Assessment

This considers the appropriateness of the retail provision, looks at the proposals in relation to the policy objectives of the NPPF, sequential approach and assesses the proposed retail floorspace against the NPPF impact tests. It does so with reference to the Derby Retail and Centres Study (RCS), July 2019.

The assessment includes a calculation of the level of convenience and comparison expenditure likely to be generated by the Boulton Moor SUE. It concludes that a store of 2000sqm gross floor area will be commensurate with providing for the shopping needs of the urban extension alone, but may also potentially help to address existing retail floorspace deficiencies in the east and south of Derby, as identified in the RCS.

In regard to the sequential approach, it is argued that given the acknowledged need for a local centre to serve the sustainable urban extension, there can be no sequentially preferable siting for retail facilities intended for that purpose other than the proposed District Centre itself. This is considered to be an accepted position, given the policy requirement under H13 to require retail provision.

To assess impact on the vitality and viability of other centres a quantitative assessment of trade diversion from other centres has been undertaken, and finds that the development will 'claw back' £2.8m - £4.6m of expenditure generated in the East and South Derby catchment area that is currently spent further afield. It will also lead to a small reduction in expenditure at existing local centres within the catchment, the most affected being Chellaston District Centre (1.6 - 2.7% reduction) and Chellaston Fields (2.4 – 4% reduction). The assessment concludes that by clawing back locally generated expenditure to centres within the catchment the establishment of the District Centre will lead to more sustainable shopping patterns for existing and future residents.

It is considered that the impact on vitality or viability of other centres is acceptable for a development of the scale and nature proposed under this application and overall, subject to appropriate conditions to control use and limit amenity impact the proposals are considered to be broadly compliant with local and national policy.

In relation to the location of the District Centre north of the brook, there remain some objections to this from Officers at Derby City. They are of the view that this location would not be 'at the heart' of the SUE and is positioned to draw trade from the A6 rather than to provide sustainable retail opportunities to existing and proposed residents.

On this point Policy H13 states that:

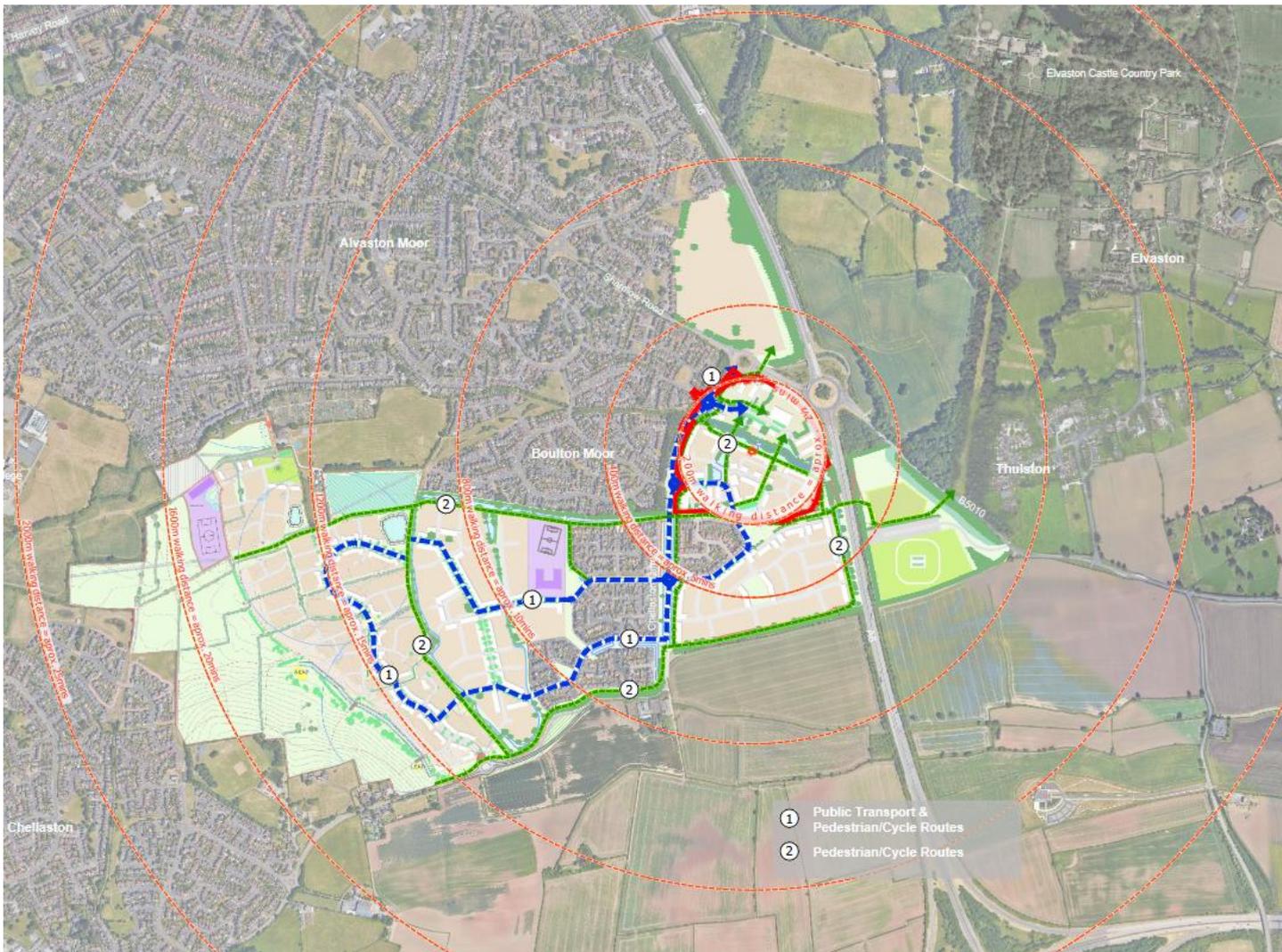
- xiii) A new district centre shall be provided, anchored by a supermarket complemented by a range of smaller units providing for day to day needs of the wider neighbourhood;
- xiv) The scale of the anchor store will be commensurate with the needs of the new community, the level of growth anticipated and the need to maintain the vitality and viability of other centres. The location of the centre should be the focal point at the heart of the new community;

The proposals provide an anchor store and as previously assessed it is considered that this is commensurate for the size of the SUE. Additional provision is shown on the illustrative plan as including two restaurants/cafes, each with drive-thru capabilities and a number of smaller units, which could accommodate a number of retail uses. Whilst the capability of restaurants to provide drive-thru opportunities appears to suggest that there will be a large number of users of these units that will drive, or may well be passing vehicles stopping to use the facilities it is recognised that restaurants and cafes do form a large proportion of main town centre 'offer'

and can become community hubs, providing residents with a place to meet and socialise. Equally these will provide facilities for the transport hub, through motorists stopping to use the EVCPs, or people using bus services.

Whilst it is acknowledged that a location south of the brook had perhaps been envisaged in the past, this was still shown in the draft DFD to draw on passing trade due to its proposed road-side location hugging Chellaston Road.

It is recognised that locating the DC wholly north of the brook will move it further away from Snelsmoor Grange site. The applicants have provided a map which demonstrates that the implication of this would add approximately 2 minutes onto a walking journey, depending on location and arguably with proposed cycle/pedestrian crossing points over the Thulston Brook improves connectivity for the future residents of BM3 to the wider SUE.



### Design and Layout Parameters

Matters of layout, scale, appearance and landscaping are reserved for later consideration (reserved matters). The only detail which this application seeks to secure is that of access. Given the scale of the proposal, the mix of uses and, a clear set of parameters for the reserved matters stage is necessary. This will help to secure a degree of cohesion between individual development parcels carried out by different developers.

In support of the application an illustrative layout, phasing plan, land use parameters, building height parameters and green and blue infrastructure plans have been submitted. Site masterplanning and layout should have regard to the existing site constraints and opportunities, with existing landscape and biodiversity features retained and enhanced, wherever possible, providing a network around which a built development can be designed.



Extract from DFD

The DFD identifies the site as falling largely within the ‘District Centre’ and ‘Streets and Squares’ Character areas. The key characteristics of these areas being:

**2** Character Area 2 - District Centre

**Key Features -**

- The heart of the new development along the main access road; includes smaller flexible units which can adapt over time with the new community;
- Space for a range of other commercial and community uses; and
- Formal landscape character
- Sense of place, well designed areas of public realm where people can meet
- Mixed use, scale, frontage to SRN, residential role
- Medium-high density with development varying between 3-4 storeys

**5** Character Area 5 - Streets and Squares

**Key Features -**

- Buildings prominently positioned to terminate and frame key views;
- Grouped parking to frontages; and
- Use of shared surface lanes encouraged to create priority for pedestrians and cyclists.
- Medium density detached and semi detached units varying between 2-2.5 storeys.

The draft DFD shows the District Centre and Bus Hub as being located to the north and south of the brook with a road frontage to enable and attract passing trade. The current proposals show the intermodal hub, retail and an element of residential contained to the north of the brook, with the south given over to residential, excepting the community building which is located almost opposite the entrance in a key nodal point. Whilst not grouped with the other non-residential elements it is considered that this building is located in a key location served by the main spine road and close to the indicative bus stops and indicative pedestrian and

cycle paths linking various elements of the SUE, less than 2 minutes walk from the commercial components of the proposals. It is considered that this slightly detached location is acceptable given that it will have a different draw from the proposed district centre uses.

It is noted that the illustrative layout shows that some consideration has been given to the layout of the built development in respect of the location of the existing boundary vegetation and mature trees and the Thulston Brook, although this has consent from the EA for a minor change to its alignment to straighten out the 'kink'.

Concern had been raised with the density proposed across the residential element of the proposals, how this would provide sufficient off-road parking to present attractive streetscenes. The applicants responded to this and reduced the number of units from the 300 stated in the DAS to 250 and further to 228. This reduction in overall numbers would result in a density of approximately 46 dwellings per hectare. This is slightly higher than previously approved (45 DPH) but is not unacceptable, with higher density areas being close to commercial uses. It is accepted that this lower density would assist in creating the sense of place envisaged for this part of the SUE, whilst noting that the intension was to have a higher density of units in the vicinity of the District Centre. It is considered that this detail can be addressed at reserved matters stage, noting that it may be possible to consider various design solutions which can address density within the site. The illustrative masterplan has been updated to reflect the reduction in density and the built form which may could come forward as part of this development which is considered to be an accepted reflection of the pattern of development which would come forward through reserved matters. The building heights parameters plan and DAS indicates all residential areas to be up to three storeys (max 12.5m height). This is considered to be largely consistent with the DFD and will allow some variety in the streetscene.

The DAS refers to the provision of 2 bedroom flats and houses, 3 bed houses and 4 bedroom houses. Discussions have taken place with the Strategic Housing team in relation to the affordable housing provision on site and an indicative housing mix has been provided which would include:

- (1 bed) 12%
- (2 beds) 28%\*
- (3 beds) 53%
- (4 beds) 7%

\* This would include 4% of 2-bed bungalows

The provision of 2-bedroom bungalows would address a local housing need. It is considered that an acceptable mix of housing can be achieved on site, including affordable provision and this can be controlled by condition and a S106 Agreement, in accordance with Policy H20.

The proposals have been amended to remove the retirement home and the applicants have advised that the care home will look to provide dementia care and nursing care which is considered to reflect a housing need in the area.

Whilst the County Council have identified the need for some transitional housing units for 17-25 years olds moving from residential care to more independent living in the form of 10-12 one-bed self-contained units which are accessed by a monitored communal entrance and have a shared lounge or common room. This has not been proposed. However, the housing

mix will provide for smaller 1 bed units which would provide an appropriate form of housing for single occupants and will form part of the affordable housing mix on the site.

The illustrative layout plan shows a LEAP, together with smaller areas of open space and landscaping. Areas of swales throughout the site and planting along the brook will also enhance the sites Green Infrastructure in accordance with Policy INF7. The Council's Parks and Green Spaces Manager has advised that whilst they could assist with the biodiversity on the site SUDs should not be classed as open spaces within a development and whilst areas of open space are shown on the indicative plans, these fall short of the requirements for on-site provision and an off-site contribution should be secured. Noting that there is the 'Triangle' open space to the east of the A6, secured through previous phases of the SUE, the area is well connected to POS such that the future residents would be able to access such facilities.

Whilst a phasing plan has been submitted to support the application which shows the care home coming forward, then the residential elements to the south of the Thulston Brook and finally the commercial elements it is considered that a condition requiring further detail to indicate when roads, cycle and pedestrian links are to be provided, connections to adjacent sites, drainage features and play and open space provision should be provided.

It is considered that the DAS provides a largely suitable basis upon which to expect reserved matters proposals to follow. Furthermore, the draft DFD, whilst not endorsed by all parties provides a significant degree of design parameters to which the proposal should adhere to.

### Planning Obligations

A section 106 agreement would be used to secure the following financial contributions as requested by consultees:

- 324,377.31 towards 19 primary places at Clover Leys Spencer Academy
- £324,377.31 towards 22 secondary places and post 16 places at the new Derbyshire Secondary School at Infinity Park
- £270,000 healthcare contribution (based on 300 not 228 dwellings). The CCG have advised that this this would go towards enhancing capacity / infrastructure with existing local practices (Alvaston Medical Centre – Aston on Trent Branch Surgery , Lister House at Chellaston , Chellaston Medical Centre). The original S106 required land to be reserved within the district centre for a new health facility. The CCG had not originally raised this in their response instead requesting financial contributions towards the above existing practises. They have been consulted further on this in light of some feasibility work they have undertaken that the Council are aware of, and have supplemented their comments advising that *'work to date looking at capacity in the area has identified recommendations which included replacing some of the existing sites with a new build, the practices are currently exploring more immediate options to increase capacity, once this review is completed we'll have a better idea of how much capacity that has created, which will feed into longer term plans. The site reserved at Boulton Moor will be one of the sites that will be considered once this issue moves onto the business case development stage. In addition to requesting a capital contribution we would ask for confirmation of the impact of this proposed development on the land reserved under 9/2010/1134 including whether alternative land or an alternative capital contribution is proposed before a decision is made on this application'*.

Confirmation has been provided that the scheme does not propose a healthcare facility. The applicants have advised that they would be content to discuss an alternative capital

contribution or alternative land within BM3 being secured through the s106 Agreement with the CCG, inline with that originally proposed in the S106 Agreement and the applicants have asked for confirmation of this need from the CCG. Whilst it is recognised that the proposals would not include these provisions on site as part of this scheme as required by the original S106, it is not considered reasonable to delay the determination of this application until the CCG have undertaken the works required to establish the need and preferred location for additional healthcare facilities.

- The proposed bus service through BM1, BM2 and SG. This service has not yet been delivered and is required to make each part of the SUE sustainable in its own right as well as cumulatively. As with previous applications a proportionate contribution should therefore be made to ensure the longevity of this service, particularly given in the early years of operation it would not draw on the same population potential arising from the SUE.
- For indoor sports/community (built facility) needs, £122.80 per person (bedroom) is sought. It is currently envisaged that this would be spent on enhancements to the community centre above the specification required under the previous permissions.
- For outdoor sports facilities, the off-site contributions would be directed towards improvements to the outdoor sports provision consented at The Triangle or a shared facility at the new secondary school at Infinity Park Way. This is based on £220.00 per person (bedroom).
- In terms of open space, the s106 guidance sets out the need for 25.4m<sup>2</sup> of Public Open Space (POS) per person (bedroom). The applicants have provided indicative plans to demonstrate how they believe the majority of this could be provided onsite (with a financial contribution secured for the remainder). It should be written into the s106 that the calculation of this POS does not include land which is fettered or not publicly accessible (i.e. swales and ponds).
- There should be 1 LEAP (applying the 400m walkability standard in the Design SPD)
- A s106 monitoring fee and Travel Bond should be imposed as well as any other monitoring fee(s) which might be required by consultees, such as the CHA for monitoring the Travel Plan.
- The quantum of affordable housing is proposed to fulfil the 30% requirement under policy H21. It is proposed to provide the full quota of this on site. The s106 agreement should include the various requirements in respect of clustering, registered providers, etc. as well as the tenure/type mix to meet the identified needs of the area, including an element of on-site bungalows. This would ensure compliance with policies H20 and H21.

In addition to the contributions listed above there would also need to be numerous requirements associated with the provision of the multi-modal transport hub including, but not limited to:

- The need to reserve the area located on a plan in the agreement for the delivery of the 'transport mobility hub'
- The need to submit to the Council for approval a delivery plan for the transport mobility hub including the following; car parking and EVCPs including availability and capacity; Bus stop laybys with bus shelters; Passenger real time information-display of bus vehicles and departures; pedestrian and cycle paths and crossings linking to local routes; Direction signage, totem with interactive digital services, noticeboard and maps of local area with travel time; cycle parking stands; Electric bicycle and scooter charging points; Space for the provision of electric bike/scooters hire scheme; Space for a future Hydrolyser; Seats and benches to be provided within a landscaped area.

- Prior to commencement of construction of the transport mobility hub landowner to agree a 20 year lease with an operator for the transport mobility hub land. The lease should include an agreement that the operator will not implement an ANPR-style parking detection and penalty system.
- Prior to the transport hub becoming operational submit to the Council for approval a management plan for the transport mobility hub detailing the management regime, maintenance and security for the hub.

The above contributions are still under a degree of negotiation at the present time and thus some flexibility will be required in order to recognise the complexity in drafting a s106 agreement to which DCC, DCityC, the Council and the landowner can all agree upon. Hence the recommendation seeks delegated authority to officers to conclude the negotiation and drafting of the agreement ahead of its signing.

### Conclusion

Whilst not wholly in accordance with the development plan in regard to the development located to the north of the Thulston Brook, it is considered that the proposals offer an acceptable form of development which will promote sustainable travel and provide facilities to the wider community of Boulton Moor. It has been demonstrated that there would not be any severe implications for the highways network, nor would the development unduly adversely affect highway safety, the amenity of occupiers of neighbouring properties, landscape, heritage assets and the vitality and viability of nearby local centres. It would provide for enhancements to the Thulston Brook with biodiversity net gain across the site and provide connections through the site, linking up with existing infrastructure and open space. The proposal is therefore recommended for approval, subject to the applicant entering into a S106 Agreement to cover the matters set out above.

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

### **Recommendation:**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report along with associated provisions for long term management of any public facilities provided; and
- B. Subject to A, **Approve** the application subject to the following condition(s):
  1. (a) Application for the first approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission, whilst application for all subsequent approvals of the reserved matters shall be made to the Local Planning Authority before the expiration of seven years from the date of this permission; and
  - (b) The development hereby permitted shall be commenced before the expiration of two year from the date of approval of the first of the reserved matters to be approved, whilst in respect of all subsequent approvals the development subject of those approvals shall

be commenced before the expiration of one year from the relevant date of approval of those reserved matters.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), noting that a timely commencement on site is required to ensure the delivery of services to support the sustainable urban extension as a whole, whilst also allowing adequate time for detailed approval of and delivery of the site in phases.

2. Prior to the commencement of any development within any phase of the development approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing. Plans and particulars of the reserved matters for each phase or sub-phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

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

3. The development hereby permitted shall be carried out in accordance with plans/drawings ref:  
Site Location Plan – RG-M-2032 Rev E  
Proposed Site Access Layout E702-PL-SK-246 Rev C;  
Site Access Layout tie in detail to committed Shardlow Works E702-PL-SK-247 Rev C;  
Chellaston Lane General Arrangement Drawing E702-DD-DR-030 Rev P01;  
Junction 3 Chellaston Road Roundabout Engineering Layout Sheet 1 Drawing E702-DD-DR-230 Rev P01 Engineering Layout 1 of 2;  
Junction 2 Shardlow Road/Snelsmoor Lane General Arrangement Sheet 2 Drawing E702-DD-DR-231 Rev P01 Engineering Layout 2 of 2;  
Chellaston Lane Cross Sections Sheet 2 of 2 Drawing E702\_DD\_DR\_633 Rev P01 Proposed Cross Section Southern Approach;  
Chellaston Lane Cross Sections Sheet 1 of 2 Drawing E702\_DD\_DR\_633 Rev P01;  
Chellaston Lane Long Sections Sheet 1 of 2 Drawing E702-DD-DR-630 Rev P01;  
Chellaston Lane Long Sections Sheet 2 of 2 Drawing E702-DD-DR-631 Rev P01;  
Swept Path Analysis Single Deck Bus Drawing E702-PL-SK-255;  
Swept Path Analysis 11.2m Refuse Vehicle Tracking Drawing E702-PL-SK-253;  
Swept Path Analysis Fire Tender Tracking Drawing E702-PL-SK-254;  
Swept Path Analysis 16.5m Articulated HGV Drawing E702-PL-SK-252;

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

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area.

4. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. RG-M-2030 revision N, the land use parameters plan green and blue infrastructure ref. RG-M-2037-3 revision G, Phasing plan ref. RG-M-2050 Rev B, Access and movement parameters plan ref. RG-M-2037-2 Revision F, land use parameter plan ref. RG-M-2037-1 Rev E, building heights parameters plan ref. RG-M-2037-4 Rev E and

notwithstanding these details, the reserved matters submitted in accordance with condition 2 shall include the following urban design principles:

- a) The creation of separate character areas in accordance with the principles set out in the draft DFD (dated 17<sup>th</sup> May 2019)
- b) The provision of greenway routes/green corridors to connect key green spaces
- c) Provision for future pedestrian and cycle access
- d) Measures to minimise the risk of crime to meet the specific security needs of the application site and the development.

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

5. No development(excluding the care home) including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:
  - (a) housing units including associated parking and boundary treatments,
  - (b) public and private highways including street lighting,
  - (c) sustainable drainage systems and associated infrastructure,
  - (d) public open space including play areas and footpath links, and
  - (e) any off-site works required under this permission, a planning obligation or agreement under the Highway Act 1980 has been first submitted to and approved in writing by the Local Planning Authority.

The development shall not be carried out other than in accordance with the approved programme. For the purposes of this planning permission all references to a 'phase' shall be interpreted as being a reference to a 'phase' as approved by this condition.

Reason: To ensure that the impacts of the development are appropriately mitigated at all stages of the construction phase, and so occupiers of the development are able to reach and access services and facilities at an appropriate time, in the interests of achieving sustainable development

6. All hard and soft landscape works approved under condition 2 shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase of the development. Any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

7. No development shall commence in a phase until, where applicable, an Open Space Strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The Open Space Strategy for each phase shall broadly accord with the illustrative masterplan and shall set out the proposals for the location, provision, programme of phasing, timing of submission of specifications, arrangements to secure public access and arrangements for short and long term management and maintenance (including funding arrangements) of all areas of open space within that phase including the following where applicable to each particular phase:
  - a) Children's Play Areas (having regard to the fact that such areas will be the subject of detailed design); and

- b) Any remaining areas of open space within the site.  
f) The provision of 3m wide pedestrian / cycle links through the development  
The Open Space Strategy shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority or required by the conditions of this permission.

Reason: In the interests of the appearance of the area and to ensure sustainable provision of public open space and recreation facilities as the wider development progresses in accordance with policies BNE1, INF2, INF7 and INF9 of the Local Plan Part 1.

8. The area surrounding any tree or hedgerow to be retained (identified in the AIA submitted in support of the application) shall have protective fencing insitu and remain undisturbed during the course of the works, and in particular in these areas:
- (i) There shall be no changes in ground levels;
  - (ii) No material or plant shall be stored;
  - (iii) No buildings or temporary buildings shall be erected or stationed;
  - (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
  - (v) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.

Reason: In the interests of the appearance of the area in accordance with Policy BNE3 of the Local Plan Part 1 and BNE7 of the Local Plan Part 2.

9. No development shall take place within a phase until a scheme for the provision and management of compensatory habitat creation has been submitted to, and agreed in writing by, the local planning authority and implemented as approved. Thereafter, the development shall be implemented in accordance with the approved scheme.

Reason: Development that encroaches on the Thulston Brook may severely affect its ecological value. The National Planning Policy Framework (paragraph 180) states that significant harm resulting from a development should be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated.

10. No development shall take place within a phase until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) within that phase, shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall have regard to the Biodiversity Enhancement Plan required under condition 16 and be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme, where applicable, shall include the following elements:

- details of maintenance regimes of new and existing habitats
- details of any new habitat created on site including attenuation basins
- details of enhancements to the Thulston Brook
- details of treatment of site boundaries and/or buffers around water bodies
- details of management responsibilities for the 30 year maintenance period, including any legal and funding mechanisms required.

Reason: To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with national planning policy and in accordance with policy BNE3 of the Local Plan Part 1.

11. No development shall take place until a scheme for the provision and management of a 30 - 40 metre wide buffer zone as shown within the Blue/Green Infrastructure Drawing RG-M-2037-3 around Thulston Brook has been submitted to, and approved in writing by, the local planning authority. Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping. The scheme shall include:

- plans showing the extent and layout of the buffer zone
- details of any proposed planting scheme (for example, native species)
- details demonstrating how the buffer zone will be protected during development including any tree protection required by the Arboricultural Report
- details demonstrating the management over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details including scale plans of any proposed footpaths, fencing, lighting, open span bridges/crossing points over the brook etc.

Reason: To ensure that the proposals conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity in accordance with Policy BNE3 of the Local Plan Part 1

12. Prior to the commencement of the development a detailed design of the proposed culvert shall be submitted to, and approved in writing by, the local planning authority. The scheme shall include details of the proposed and existing culvert including:

- Cross-sectional details
- Invert and Soffit levels
- Construction details
- Timing/phasing details
- Operation and maintenance details including further owners.

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that the culvert is built to current design standards and does not increase flood risk elsewhere in accordance with Policy SD2 of the Local Plan Part 1.

13. No removal of hedgerows, trees, shrubs or brambles 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 order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with Policy BNE3 of the Local Plan Part 1 and BNE7 of the Local Plan Part 2.

14. Prior to the commencement of any groundworks for a phase a survey for any recently excavated badger setts on the site or within 30 metres of the site boundary relating to

that phase, shall be undertaken by a suitably qualified ecologist. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing in a phase, with the mitigation measures implemented and retained in accordance with the approved timetable.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts in accordance with Policy BNE3 of the Local Plan Part 1.

15. No development shall take place (including demolition, ground works, vegetation clearance) within a phase until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall, where applicable, include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - 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.
  - 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 safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts to protected and non-protected interests in accordance with Policy BNE3 of the Local Plan Part 1.

16. Prior to the commencement of a phase, a Biodiversity Enhancement Plan (BEP) for that phase shall be submitted to, and be approved in writing by, the Local Planning Authority. The BEP shall be in accordance with the Biodiversity Net Gain Assessment Report prepared by Penny Anderson Ass. Ltd April 2022 and shall include, where applicable, the following: -
  - a) Description and location of all habitats to be retained, created, enhanced.
  - b) Details of methods, timescales and species mixes for habitat creation and enhancement
  - c) Details of the installation of integrated swift bricks at a ratio of 1 per dwelling, enhancements for other birds (10 external nest boxes) and bats (5 external boxes).
  - d) Details including a plan to ensure connectivity 'gaps' for hedgehogs between gardens and other buildings to link in with greenspace.
  - e) Details of enhancements for insects within the development.

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

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain in accordance with Policy BNE3 of the Local Plan Part 1.

17. Prior to the construction within any phase of a building above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority for that phase to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full and retained for the life of the development.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with Policy BNE3 of the Local Plan Part 1.

18. All tree works shall be undertaken in accordance with the detail set out in the Arboricultural Impact Assessment (10784\_AIA.002 Rev A dated October 2021) and the accompanying Tree Protection Plan.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area in accordance with Policy BNE3 of the Local Plan Part 1 and BNE7 of the Local Plan Part 2.

19. Prior to the first occupation of the residential (excluding the care home) development hereby approved a detailed scheme for the LEAP shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10no. pieces of play equipment, bins, amenity areas eg.seats, boundary treatments and details of the proposed maintenance and management of the LEAP for the lifetime of the development. The LEAP shall be implemented on site prior to the first occupation of the residential (excluding the care home) development in accordance with the approved details and shall be retained thereafter for the lifetime of the development in good working order.

Reason: To ensure sufficient opportunity for safe play within the development and in the interests of public safety, residential amenity, visual amenity, landscape character and local character.

20. No development of a phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be retained in situ for the life of the development.

Reason: In the interests of the appearance of the area in accordance with Policy BNE11 of the Local Plan Part 1.

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage

infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan.

22. No development within a phase shall commence until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings within that phase have been submitted to and approved in writing by the Local Planning Authority. This shall include the colour of fascia boards, guttering and downpipes; details of and around eaves, verges, string/dentil course and window/door reveal details; and utility cupboard colours (both wall and ground mounted) and their locations. The development of each phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally in accordance with Policy BNE1 of the Local Plan Part 1.

23. No phase which includes residential development shall commence until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:
- i. No less than 30% of housing shall be Affordable Housing, of which 4% of the provision should be 2bed bungalows;
  - ii. The arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
  - iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing except where a third party has fully acquired a shared ownership home or where a rented property has been fully acquired under the Right to Buy Scheme or Right to Acquire; and
  - iv. The occupancy criteria to be used for determining the identity of occupiers of the affordable rented housing which is or remains under the control of the Affordable Housing Provider by means of the District Council's Allocations Scheme or in such form as may be proposed by the Local Authority and the means by which such occupancy criteria shall be enforced.
  - v. Details of clusters, which should be in accordance with the Affordable Housing SPD.

Reason: To ensure that affordable housing is provided on site as stipulated within the supporting documents and as considered during the assessment of the application, in accordance with Policy H21 of the Local Plan Part 1.

24. No development within any phase shall commence before details of the finished floor levels of each building within that phase has first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the locality generally in accordance with Policy BNE1 of the Local Plan Part 1.

25. The Care home, hereby approved shall be operated as a care home only, providing nursing and dementia, or other specialist care (Use Class C2) as set out in the applicants email of 11<sup>th</sup> March and shall not be used as an open residential care facility.

Reason: To ensure that the development meets identified housing needs within the district in accordance with Policy H20 of the Local Plan Part 1.

26. If, during development, contamination not previously identified is found to be present within that phase then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework (NPPF).

27. Any phase of development which includes the installation of underground tanks shall not commence until such time as a scheme to install the underground tanks has been submitted to, and approved in writing by, the local planning authority.

The scheme shall include the full structural details of the installation, including details of: excavation, the tanks, tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes subsequently agreed, in writing, by the local planning authority.

Reason: To ensure that the underground storage tanks do not harm the water environment in line with paragraph 174 of the NPPF and Position Statement D3 of the 'The Environment Agency's approach to groundwater protection'.

28. All exterior lighting shall be capped at the horizontal with no upward light spill.

Reason: So as to prevent distraction or confusion to pilots using EMA for flight safety in accordance with Policy INF5 of the Local Plan Part 1.

29. 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 solar PV or solar thermal shall be installed on any buildings hereby approved without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: In the interests of protecting pilots using East Midlands Airport from the impacts of glint and/or glare which could affect aviation safety in accordance with Policy INF5 of the Local Plan Part 1.

30. An access strategy and a Bird Hazard Management Plan shall be submitted to and approved in writing by the Local Planning Authority to accompany any phase of the development where a flat roof is proposed. The Management Plan shall include details of checks and their frequency and methods to dissuade large gulls from breeding and nesting. The approved plan shall be implemented prior to first use of any building to which it relates, for the life of the development.

Reason: In the interests of flight safety and the avoidance of bird strike in accordance with Policy INF5 of the Local Plan Part 1.

31. No phase of the development hereby permitted shall commence until a foul and surface water drainage scheme for that phase has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and completed prior to the development being brought into use.

Reason: To ensure that the proposed drainage system does not harm groundwater resources in line with paragraph 174 of the NPPF.

32. No development shall take place in a phase until a detailed design and associated management and maintenance plan of the surface water drainage for that phase has been submitted to and approved in writing by the local planning authority, in accordance with the principles outlined within:
- a. Cannon Consulting Engineers. October 2021. Flood Risk Assessment . CCE/ E702/ BM1- FRA-03. including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
  - b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted in accordance with Policy SD2 of the Local Plan Part 1.

33. No development within a phase 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 within that phase accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

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:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

And in accordance with Policy SD2 of the Local Plan Part 1.

34. Prior to commencement of development within a phase, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase of that phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works within that phase, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties

or occupied properties within the development and in accordance with Policy SD2 of the Local Plan Part 1.

35. The attenuation pond's should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority. In order to minimise any attractant for hazardous birds any above ground water attenuation should be generally dry with a quick draining to a dry base.

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future and in accordance with Policy SD2 of the Local Plan Part 1.

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

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753. The site has been split into multiple drainage areas and will have a greenfield limited discharge of 3.5l/s/ha. Approximately 1000m<sup>3</sup> of storage is required across the multiple catchments and in accordance with Policy SD2 of the Local Plan Part 1.

37. The rating level of sound emitted from any fixed plant or machinery associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at any sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

Reason: To protect the amenities of nearby residents and in compliance with policies E7, SD1 and BNE1 of the Local Plan Part 1.

38. Before the first occupancy of any building within a phase which is not a dwellinghouse, a delivery noise mitigation scheme for that phase shall be submitted in writing and approved by the local planning authority detailing measures that will be implemented to ensure that delivery noise associated with the use does not cause detriment to amenity or a nuisance to those living in the vicinity. The noise mitigation scheme shall be implemented for the lifetime of the use of the relevant buildings.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with policies E7, SD1 and BNE1 of the Local Plan Part 1.

39. Any application for reserved matters within any phase of the development shall be accompanied by a transport noise mitigation scheme. This shall detail measures that will be implemented to ensure that local transport noise does not cause detriment to amenity or a nuisance to those living within the residential parts of the development. For the purposes of this condition 'residential' includes retirement and care homes. The agreed noise mitigation measures shall be implemented before the first occupancy of noise sensitive residential units and shall be maintained for the lifetime of the development.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with policies E7, SD1 and BNE1 of the Local Plan Part 1.

40. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:

Residential Commercial / Retail Industrial

1 charging point shall be provided per unit (house with dedicated parking) 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger) 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger)

1 charging point per 10 spaces where the individual units have no allocated parking  
To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the local authority.

Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD.

This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the local planning authority

The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in accordance with the South Derbyshire Design SPD & policy BNE1 of the Local Plan Part 1.

41. Prior to the first occupation of any phase of the development which includes Use Class E(b), a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues for that phase, shall be submitted to and approved in writing by the local planning authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority.

Reason: To protect the amenities of nearby residents and comply with policies SD1 and BNE1 of the Local Plan Part 1.

42. Before the first occupation of any phase of the development, a written scheme providing details of the proposed provision of low carbon heating for that phase shall be submitted to and approved in writing, by the local planning authority. The scheme shall include details about the proposed heating provision and provide calculations of the emissions of carbon dioxide equivalent and respirable particulate (as PM2.5). Prior to the occupation of the respective parts of the development, the approved provision shall be installed and commissioned.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in accordance with the South Derbyshire Design Guide SPD & Policy BNE1 of the Local Plan Part 1.

43. Prior to the commencement of any phase of the development a scheme to deal with potential contamination of land & ground gas has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
  2. If necessary, a remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
  3. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
  4. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Policy SD4 of the Local Plan Part 1.

44. The mitigation measures described at page 26-27, Table 19 of the Air Quality Assessment by Redmore Consulting Ref: 4929r2 dated 13h October 2021 shall be adopted in full for the entire construction phase of the development.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts in accordance with Policy SD1 of the Local Plan Part 1.

45. No residential development shall commence until details of the noise bund / barrier adjacent to the A6 boundary (including cross sections from the boundary to the edge of the carriageway, foundation details and CD 622 certification) have been submitted to and approved in writing by the Local Planning Authority in consultation with National

Highways. The approved noise bund / barrier shall be constructed in accordance with the approved plans and maintained in perpetuity.

Reason: To ensure that the A6 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980, in the interest of road safety.

46. No development within a phase shall take place until a Written Scheme of Investigation for archaeological work for that phase has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The WSI shall make provision for two phases of work (evaluation and mitigation), with an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
  7. Provision for the evaluation phase to be complete and reported before submission of reserved matters with details of layout

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

c) The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts in accordance with Policy BNE2 of the Local Plan Part 1.

47. The trading hours of the Class E and Sui Generis uses floorspace hereby permitted shall be restricted to 07.00 to 23.00 daily.

Reason: In order to minimise the impact of the proposed use upon the neighbouring residential uses in accordance with Policy SD1 of the Local Plan Part 1.

48. With the exception of the supermarket, which shall be restricted to 2,000 SQM, the Class E and Sui Generis uses shall each not exceed 220 SQM per individual unit and shall not exceed 1,140 SQM in total.

Reason: In the interests of the vitality and viability of the surrounding local centres and to ensure that the proposals meet the local needs of the sustainable urban extension in accordance with Policy H13 of the Local Plan Part 1 and Policy RTL of the Local Plan Part 2.

49. No phase of the development that includes non-residential development shall be occupied until such time as secure (and under cover) cycle parking has been provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: In the interests of encouraging sustainable modes of transport and in accordance with Policy INF2 of the Local Plan Part 1.

50. Space shall be provided within the site for the parking of vehicles on the basis of 2 spaces for 2 or 3 bedroom dwellings, 3 spaces for 4 or 4+ bedroom dwellings. For the avoidance of doubt, where a garage is classed as a parking space, the internal dimensions shall measure at least 3m x 6m for a single and 6m x 6m for a double garage.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan Part 1.

51. Prior to the first use of any of the Class E and Sui Generis uses the intermodal transport hub, including the bus layby shall be operational and open to all users of the facility.

Reason: Recognising the need for this element of the proposal to provide sustainable transport options within the wider area.

52. Prior to the first use of any Class E or Sui Generis uses their respective access and parking areas shall be laid out in accordance with details to first be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan Part 1.

53. A Local Lettings Plan shall be submitted to the local planning authority and agreed in writing prior to letting the affordable rented homes on site.

Reason: In the interests of ensuring that appropriate affordable housing is provided within the site in accordance with Policy H21 and the South Derbyshire District Council Affordable Housing SPD.

54. Any reserved matters application for the district centre shall be accompanied by evidence to demonstrate that traffic generation by the proposed uses would not exceed that illustrated in the Transport Assessment submitted in support of this application.

Reason: To ensure that the traffic impacts of the proposals are appropriately considered and would not result in any severe impact on the existing highway in accordance with policy INF2 of the Local Plan Part 1.

55. No development within a phase 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 and any proposed temporary traffic restrictions.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

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

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

57. Prior to any other works commencing on the land north of the Thulston Brook, the new roundabout hereby approved shall be laid out and constructed generally in accordance with the revised application drawings contained in Technical Note RSA01 but in accordance with detailed drawings first submitted to and approved in writing by the Local Planning Authority. The roundabout shall be constructed in accordance with Derbyshire County Council's specifications for adoptable roads. For the avoidance of doubt, the applicant will need to enter into an Agreement with Derbyshire County Council under Section 278/72 of the Highways Act 1980.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

58. Notwithstanding the submitted drawings, prior to the roundabout first being taken into use, a 3m wide footway and cycleway shall be provided on the western side of Snelsmoor Lane, extending north from that existing to Shardlow Road and then west along Shardlow Road to the existing pedestrian/cycle route and bus stop. The pedestrian and cycleway shall be laid out and constructed in accordance with a detailed design first submitted and approved by the local Planning Authority in accordance with Derbyshire County Council's specifications.

Reason: Reason: In the interests of highway safety, sustainable travel and in accordance with policy INF2 of the Local Plan Part 1.

59. Notwithstanding the submitted drawings, prior to the roundabout first being taken into use, a signalised crossing shall be provided on Snelsmoor Lane north of the new roundabout hereby approved. The crossing shall be laid out and constructed in accordance with a detailed design first submitted and approved in writing by the local Planning Authority and in accordance with Derbyshire County Council's specifications.

Reason: In the interests of highway safety, sustainable travel and in accordance with policy INF2 of the Local Plan Part 1.

60. Prior to the commencement of development north of the Thulston Brook, the existing access onto Snelsmoor Lane shall be reinstated as footway, laid out and constructed to Derbyshire County Council's specification in accordance with details first submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety, sustainable travel and in accordance with policy INF2 of the Local Plan Part 1.

61. Any subsequent reserved matters for the residential development shall include the detailed design of the internal layout of the site in accordance with the guidance contained in the current Derbyshire County Council Design Guide and the "Manual for

Streets” document issued by the Departments for Transport and Environment and Local Government.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

62. Any reserved matters application shall be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

63. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed new housing estate streets within the development have been submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

64. Prior to the first occupation of each new dwelling on the site, the new estate street between each respective residential plot and the existing public highway shall be laid out in accordance with approved application drawings, constructed to base level, drained and lit in accordance with the County Council’s specification for new housing development road.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

65. Facilities for the storage of waste bins on collection day shall be provided within private land at the entrance to shared private access drives, in accordance with a scheme for each phase that shall have previously been submitted to and approved in writing by the local Planning Authority. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety, residential amenity and the appearance of the development and in accordance with policy INF2 and BNE1 of the Local Plan Part 1.

66. Any reserved matters application shall be accompanied by a full Travel Plan, for that phase, which sets out actions and measures with quantifiable outputs and outcome. Once approved, the Travel Plan shall be implemented in accordance with the details contained therein.

Reason: In the interests of highway safety and sustainable travel in accordance with policy INF2 of the Local Plan Part 1.

67. The development hereby permitted may not commence until such time as a scheme to install the underground tanks has been submitted to, and approved in writing by, the

Local Planning Authority.

The scheme shall include the full structural details of the installation, including details of: excavation, the tanks, tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes subsequently agreed, in writing, by the local planning authority.

Reason: To ensure that the underground storage tanks do not harm the water environment in line with paragraph 174 of the NPPF and Position Statement D3 of the 'The Environment Agency's approach to groundwater protection and Policy SD1 of the Local Plan Part 1.

Informatives:

This permission is the subject of a agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to [s106@southderbyshire.gov.uk](mailto:s106@southderbyshire.gov.uk) with the application reference included in correspondence.

The applicant/developer is advised to liaise with the Local Planning Authority prior to submitting details of reserved matters for approval. It is strongly encouraged that, in addition to the requirements set out in any conditions, adequate details are supplied so to negate the need for further conditions upon approval. For example, details and locations of boundary treatments and species and size for soft landscaping should be provided pursuant to matters of landscaping, whilst details and/or samples of facing and surfacing materials and details of porches, rooflights, verges, eaves, cills and lintels should be provided pursuant to matters of appearance. For all matters, attention should be given to the Council's Design Guide Supplementary Planning Document - in particular the relationship with surrounding properties and the quality of materials and finishes expected.

#### East Midlands Airport

No lighting directly beneath any roof lights that will emit light upwards – only downward facing ambient lighting to spill from any roof lights upwards – ideally, automatic blinds to be fitted that close at dusk.

Reason: Flight safety - to prevent distraction or confusion to pilots using EMA. Given the location of this property the applicant should be aware that the airport will take action against anyone found in contravention of the Air Navigation Order ("Order"). In particular in contravention of the following provisions under that Order:-

- Part 10: 240: A person must not recklessly or negligently act in a manner likely to endanger an aircraft, or any person in an aircraft.
- Part 10: 241: A person must not recklessly or negligently cause or permit an aircraft to endanger any person or property.
- The applicant's attention is drawn to the new procedures for crane and tall equipment notifications, please see: <https://www.caa.co.uk/Commercial-industry/Airspace/Event-and-obstacle-notification/Cranenotification/>

#### Broadband

Investment in the County's broadband infrastructure, to support the future economic prosperity of the county, continues to be a priority for the County Council. The Digital Derbyshire programme is a partnership between Derbyshire County Council and Openreach to provide access to NGA fibre broadband services for residents and businesses. The Council's ambition is that 98% of homes and businesses in Derbyshire will be able to access speeds of at least 24 Mbps by the end of 2020.

The Digital Derbyshire programme applies to existing households and businesses. New residential developments coming forward will not necessarily be covered by the Digital Derbyshire programme. Therefore, all developers proposing housing developments should look to provide for NGA broadband infrastructure and services as part of the design of their development schemes at the outset. It is not expected that the County Council will require fibre-based broadband to be provided to make a development acceptable in planning terms, however developers should look to provide for NGA broadband infrastructure services as an integral part of the development scheme at the outset.

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

Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk). No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

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

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

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

The applicant should provide a flood evacuation plan which outlines:

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

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

Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc).

Peak Flow Control

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

Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not

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

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

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

- Ground percolation tests to BRE 365.
  - Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
  - Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003.
  - Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
  - Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
  - Drawing details including sizes and material.
  - Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.
- L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA.  
(Other methods of drainage calculations are acceptable.)
- M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

### Highways

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. The appellant should be aware that this will be the subject of separate approval. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Place Department at County Hall, Matlock, e-mail [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) or call 01629 533190. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

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 Place Department at County Hall, Matlock. [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) or call 01629 533190.

Construction works are likely to require Traffic Management. Advice regarding procedures should be sought from Derbyshire County Council's Traffic Management section (01629 538686). All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/roadworks/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp)

Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of

the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting Derbyshire County Council via email – [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or call 01629 533190. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

**Item No.** 1.5

**Ref. No.** [DMPA/2021/1362](#)

**Valid date:** 01/09/2021

**Applicant:** JSC Farming ltd & Central Land Holdings Ltd **Agent:** Barton Wilmore

**Proposal:** Creation of a 4-arm roundabout at Chellaston Lane , Derby

**Ward:** Aston

### **Reason for committee determination**

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

### **Site Description**

The site lies within Boulton Moor which is located on the south eastern edge of Derby, approximately 6.5km from Derby City Centre and immediately south west of Alvaston. The built up area adjoining the site to the north-west comprises housing which formed part of the original Boulton Moor development. Immediately to the east lies agricultural land, currently subject to an application for residential development, a district centre and transport hub (DMPA/2021/1687), beyond that lies the A6. To the north lies Shardlow Road which intercepts with Chellaston Lane. To the south lies further residential properties and a roundabout on Chellaston Lane provides access to these developments.

The application area comprises a length c200m of Chellaston Lane, a small section of Woods Meadow, a section of the highways verge and part of the adjacent agricultural field.

Chellaston Lane is lined by collections of mixed deciduous buffer planting and scrub, with an unpaved grass verge on both sides. To the southeast of Chellaston Lane trees are located on the boundaries of the field, and within a ditch corridor extending from a culvert under the road and continuing to the southeast. There are currently no Tree Preservation Orders (TPOs), veteran trees or ancient woodland on the site.

### **The proposal**

The proposed development consists of the creation of an access from Chellaston Lane. This would be in the form of a 4 arm roundabout with Chellaston Lane, Woods Meadow and a new access into the open fields to the east of Chellaston Lane which is currently subject to a separate application.

The roundabout has been designed to allow for two lane approaches from the north and south. The roundabout is off-set to the east of Chellaston Lane to allow for the Woods Meadow drive to be built out to connect with the roundabout. The splitter island and the give-way line on the Woods Meadow arm will move slightly further east than its current location.

Due to the timing of the committed improvement works immediately north of the site at the Chellaston Lane / Shardlow Road junction, required as part of the Boulton Moor 2 and Snelsmoor Grange developments, plans have been submitted which demonstrate how the proposals would tie in with the existing situation and that which will come forward as a result of

DMPA/2021/1362 – Chellaston Lane, Derby



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South Derbyshire District Council, LA 100019481.2020

the off-site highways works, such that the proposed works would not impede or restrict the long term mitigation works secured through consented permissions.

## **Applicant's supporting information**

### Transport Note 01 – Proposed District Centre Access Note

This document provides the background to the application and the linked application. It sets out the existing and committed highways improvements, public transport and walking and cycling strategy. It describes the proposed highways works, implications for the committed schemes, sets out the swept path analysis undertaken, vertical alignment design and the junction capacity, including trip data for difference uses. It concludes that the proposed development can operate within capacity and accommodate future traffic forecasts without impacting on the existing highway network.

### Technical Note RSA01 - Updated Stage 1 Road Safety Audit Response

A Road Safety Audit was undertaken to identify potential issues with highways safety. The applicants through this document responds to each point clarifying how the scheme would address issues and provides the relevant information or analysis.

### Tree Survey

The report identifies the existing trees within the application site, these being:

- two English Oak within the centre of the site (T6 & T8) are of moderate arboricultural quality, and capable of providing a significant long term contribution to the site's amenity (Category B)
- Chellaston Lane is lined by collections of mixed deciduous buffer planting and scrub; the most significant of these comprise G7 and G8, located to the northwest, which provide a dense screen of the highway from adjacent residential dwellings (Category B as a collective not on individual merit)
- To the southeast of Chellaston Lane, and adjacent to Shardlow Road and the A6, the buffer planting is less well established, formed of four groups (G1-G3 & G10) of semi mature plantings (majoring on Field Maple and Ash) (Category C, replaceable in a relatively short timeframe)
- To either side of Woods Meadow, one Laurel hedge (H1) and one ornamental group (G6) are set within the curtilages of residential properties. Neither affected by works.
- Trees associated with the agricultural use of the fields immediately to the southeast of Chellaston Lane. Trees are located on boundaries of fields, within ditch corridors and along south eastern boundary (two Ash, an Apple, a Silver Birch, a Goat Willow and a Crack Willow and intermittent scrub groups, establishing along the ditches (Category C)
- A single dead Hybrid Black Poplar (T9) on south eastern boundary to be removed or heavily pruned to minimise risk from limb failures.

The assessment concludes the arboricultural impact is limited to the removal of two parcels of semi mature broadleaf planting and partial removal of a third. All are considered to be of low quality. No veteran or protected trees are to be removed.

### Ecology Report and Biodiversity Net Gain Assessment

The report consists of a review of previous ecology surveys undertaken and the results of a detailed habitat survey and tree inspection undertaken in October 2020 and September 2021. The report identifies the key characteristics of the site, the legislative framework for assessing applications and their impact on biodiversity and specific species and describes the methodology employed to assess the site. It identifies constraints and limitations and concludes in detail the findings of the surveys and the implications of development on habitats and wildlife concluding that the site is largely unchanged from previous surveys in terms of its

ecological status. The key habitats of ecological value are the Thulston Brook and hedgerows H1 and H2a/H2a. These will largely be retained within the proposed layout, including three mature trees located on the Thulston Brook. The arable field interiors and associated field margins would be lost but these are of negligible ecological value. Thulston Brook will be diverted along part of its length and sections of hedgerow H2a and H2b have previously been removed to facilitate the brook diversion. These do not qualify as 'Important' under the Hedgerow Regulations but the loss will be mitigated by native species tree and shrub planting within the retained Thulston Brook corridor. It makes a number of recommendations to maintain and enhance the ecological value of Thulston Brook and associated corridor including sensitive naturalistic channel design and native wetland planting, coupled with suitable long-term management. The proposed new attenuation basins would also be designed and managed to maximise their biodiversity value. Protected species are limited to evidence of foraging by along the Thulston Brook corridor and western field boundary which will be retained and the presence of a confirmed bat roost (a summer roost for a single common pipistrelle bat) within a mature pedunculate oak tree T8. This tree will be retained within the Thulston Brook habitat corridor, and the proposed new habitats and sensitive lighting and management will ensure that the corridor continues to provide suitable bat foraging/commuting habitat. Two green crossing points are proposed over Thulston Brook, and recommendations are given to minimise the impact of these crossing points by maintaining some channel bed substrate beneath the crossing points. A precautionary approach is recommended for comprising an update inspection prior to the start of construction and covering of open excavations at night and/or use of ramps to prevent animals becoming trapped. Overall, the report concludes that there are no features of ecological value that would preclude development of the site and the key features of interest would be adequately retained and safeguarded within the site layout with suitable, undisturbed buffer zones. Furthermore, it considers that this development seeks to provide an overall biodiversity net gain. through the retention and enhancement of the Thulston Brook corridor which will provide a net biodiversity gain in terms of river habitat condition as well as a net gain in the extent and condition of native tree and shrub species compared with the current situation. The ecologically designed attenuation basins will also represent a net habitat gain compared with low value arable land that they are replacing. The net gains will be delivered through ecologically sensitive design of the diverted river channel to incorporate greater channel diversity and a net increase in native tree and shrub cover as well as use of native wetland species planting throughout the proposed wetland attenuation areas. The Biodiversity Net Gain Assessment demonstrates where mitigation and enhancement can be achieved and calculates the different units to demonstrate the substantial biodiversity benefits which could be achieved.

### Flood Risk Assessment

The report identifies the site and proposals against the existing situation in respect of flood risk advising that it is not considered that the proposal would be subject to significant or unmanageable flooding. It states that surface water runoff will be attenuated and discharged into the Thulston Brook at a rate of 3.5l/s/ha.

### **Relevant planning history**

#### Boulton Moor Phase 1 (BM1): Outline and reserved matters

9/2005/0611 Outline application (all matters to be reserved except for means of access) for the construction of up to 1058 dwellings together with a primary school, retail provision, public open space, supporting infrastructure and associated landscape works - Not determined but allowed at Appeal January 2009

9/2010/1134 Extension of time limit for implementation of outline permission 9/2005/0611 including variation of conditions 1, 2, 5, 6 and 25 - Approved November 2011

9/2013/0802 Approval of reserved matters of 9/2010/1134 for the erection of 284 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phases 1a & 1b) - Approved April 2014

9/2015/0612 Approval of reserved matters of 9/2010/1134 for the erection of 113 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved January 2016

9/2015/1104 Approval of reserved matters of 9/2010/1134 for the erection of 145 dwellings with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved December 2016

9/2017/0286 Approval of reserved matters of 9/2010/1134 for the erection of 119 dwellings (in lieu of 113 previously approved under 9/2015/0612) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1c) - Approved June 2017

9/2017/0822 Approval of reserved matters of 9/2010/1134 to facilitate the reorientation of 9 dwellings (previously approved under 9/2015/0612) (Boulton Moor Phase 1c) - Approved October 2017

9/2017/0826 Approval of reserved matters of 9/2010/1134 for the re-plan of part of the site and the addition of 1 dwelling (previously approved under 9/2015/1104) with associated infrastructure, car parking and landscaping (Boulton Moor Phase 1d) - Approved November 2017

9/2018/0606 Approval of reserved matters of 9/2010/1134 to facilitate the plot substitution of 10 dwellings, and re-siting of detached garage; in lieu of reserved matters approvals ref. 9/2015/0612, 9/2017/0286 and 9/2017/0822 (Boulton Moor Phase 1c) - Approved September 2018

9/2019/0658 Approval of reserved matters of 9/2010/1134 for the erection of 351 dwellings with associated infrastructure, access roads, drainage and public open space (Boulton Moor Phase 1e) - Approved November 2019

DMPA/2021/1687: Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for A District Centre comprising a Retail Foodstore (Use Class E), Retail/Café/Restaurant/Drive-Thru units/Nursery (Use Class E/Sui Generis), a Transport Mobility Hub and Petrol Filling/Electric Charging Station (Sui Generis). Residential development (Use Class C3), a care home (Use Class C2), a community facility (Use Class F2), and associated road infrastructure, landscaping, services, and engineering works - Pending decision

#### BM2 Outline and reserved matters

9/2016/0166: Outline application (all matters to be reserved for the residential development for up to 550 units, a two-form entry primary school, strategic road links (connecting Boulton Moor Phase 1 and Snelsmoor Grange), public open space including children's play provision, surface water drainage and landscaping and ancillary supporting infrastructure (Boulton Moor Phase 2) - Approved July 2020.

DMPA/2022/0440: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to outline permission ref. 9/2016/0166) - Pending decision.

#### BM1 & BM2: Infrastructure related applications

9/2008/0415 Construction of landscaped earth bund, pedestrian cycle bridge and extension of the Thulston Brook - Approved July 2008

9/2011/0783 Extension of time limit for implementation of outline permission 9/2008/0415 - Approved December 2011

9/2015/0998 Outline application (all matters to be reserved) for the creation of playing pitches, a sports pavilion, allotments, ancillary car parking and associated access, informal open space

and landscaping (The Triangle, Boulton Moor Phase 1) - Approved

July 2017

9/2015/0959 Outline application (all matters to be reserved) for the construction of a two-form entry primary school and associated access, car parking, outdoor play space, surface water drainage, services, lighting, signage and landscaping - Approved

July 2017

9/2017/1216 Off-site highway improvements (pursuant to condition 25 of outline permission ref. 9/2010/1134) to include the construction of two roundabouts - Approved June 2018

9/2018/0017 Approval of reserved matters of 9/2015/0959 for the construction of a 2-form entry primary school and associated access, car parking, outdoor play space, services and landscaping - Approved April 2018

DMPA/2019/1119 Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2015/0998 - Pending decision

DMPA/2021/0922: The erection of a one form entry Primary School and associated facilities – Approved December 2021

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

Environmental Health Officer - No objections to the proposals, subject to a condition requiring a Construction Environmental Management Plan (CEMP).

National Highways - The new roundabout will form part of the local road network. Previous trip generation assessments confirm that the roundabout provision will not adversely impact on the Strategic Road Network namely the nearby A6 Thulston Roundabout. No further comments on these proposals.

Natural England - No objections. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Derby City Council (Highways) - (15/10/21) Don't object to the application because the access junction is not on Derby City Council's highway network although they are of the view that there is a need for a signalised pedestrian crossing on the northern arm of proposed roundabout. Considering that Shardlow Road in this location will become 4 lanes, and this will be one of the main crossing points between the district centre and the Boulton Residential Area, I suggest that this is needed for highway safety reasons. Do not agree with the trip rates and split of types used in the assessment of the junction or for the future use in the application for the District Centre. It would be prudent for the developer to review the trip generation rates and type because it might impact on the design capacity of the junction. I note that certain arms are operating at 70% capacity. This will become an issue for the City Council in the District Centre application if the access junction starts to impact on the operation of the proposed A6(T) Shardlow Road Improvement Scheme, or the District Centre land uses push the A6(T) Shardlow Road Improvement Scheme over capacity and impact on the operation of Derby City Council's transport network.

SDDC Tree Officer - No objections subject to conditions. The Arboricultural Impact Assessment (AIA) is comprehensive. It appears the design layout will require the removal of only a few groups of trees and these have been categorised as 'C' grade. I have no objections to the removal of these groups. G4 is a 'retained group' where it is intended to cut away a small section, thereby creating construction space for a footpath. The Tree protection Plan (TPP) clearly indicates the extent of the proposal and that any work within the RPA is to be done manually; it would be beneficial to have this reinforced with a condition. It is also

proposed that a Goat Willow within G4 will require extensive pruning. I have no concerns in principle, however, as root disturbance/loss is expected and, that such trees are prone to limb fractures, pruning should reflect this and the juxtaposition of the new footpath. The removal of sections of buffer planting to accommodate the scheme generates a limited requirement for replacement planting.

East Midlands Airport - No objections, subject to all lighting being capped at the horizontal.

Environment Agency - 1/11/21 - In the absence of a flood risk assessment (FRA), object to this application. The application site lies partially falls within Flood Zone 3, which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 163, footnote 50) states that an FRA must be submitted when development is proposed in such locations. It is noted that the proposals will impact on the channel of the Wilne Drain, which is designated as a Main River. As such these proposals will require a permit under the Environmental Permitting (England and Wales) Regulations 2016.

20/12/21 - Object to the extension of the Wilne Drain/Thulston Brook culvert, without assessment of other options within the report or the provision of mitigation to offset the loss of open channel. The FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development.

11/3/22 - Object - the proposals would not be sufficient for them to support the issuing of a permit for this site. No evidence of mitigation provided for the culverting of 12m of the Thurlston Brook. Improving the watercourse over and above the mitigation requirement is also recommended, this should be seen as an opportunity to enhance the development site and will go towards the developer's net gain for biodiversity contribution.

22/7/22 - No objections subject to conditions.

Derbyshire County Council Archaeology - No comment on the proposals.

Derbyshire Wildlife Trust - No evidence of water vole was found on the Thulston Brook and on the basis of the submitted information we advise there should be no other protected species issues arising with the application. Four notable farmland bird species were identified as using the wider site area but we are satisfied that the habitats within and adjacent to the proposed roundabout area are unlikely to support these species. The report concludes there will be no loss of habitat of significant ecological value. We would concur with this conclusion. As a precautionary measure, we advise that the development should be carried out in accordance with the nesting birds and badger mitigation measures recommended in the Update Ecology Survey letter report prepared by Penny Anderson Associates Ltd dated 23rd August 2021 as a planning condition.

Derbyshire County Council Highways Authority - 29/12/21 - Raises a number of issues with the submission and will need to be addressed prior to the Highway Authority making any formal recommendations, including its detailed design, forward visibility, levels and the impact of this on the committed Shardlow Road improvement scheme.

14/2/22 - Considered that the proposed roundabout access into the site has sufficient capacity to accommodate the quantum of development under consideration, the CHA is cognisant of the concerns raised by Derby City Council particularly in regard to both the comparator sites selected for the purposes of determining trip ends to/ from the site, together with the inherent difficulties in quantifying the exact numbers of the different trip types, bypass, diverted, new and transfer trips and their impacts upon offsite junctions, notably Snelmore Lane at its junction with Shardlow Road. In view of these concerns, it would perhaps be prudent to

monitor traffic levels from the development in particular origins and destinations of (linked) trips between the site and Shardlow Road.

14/7/22 - Understand that the intention is to bring forward this development before the trigger for the full Snelsmoor Lane/Shardlow Road junction signalisation scheme. As the District Centre is likely to generate significant use by pedestrians and cyclists, the Highway Authority maintains the need for a pedestrian/cycle link from that existing on Snelsmoor Lane, north to the junction with Shardlow Road and west to the existing facilities and bus stop. There is an obvious, existing desire line and this will be exacerbated by the development.

10/8/22 – No objections subject to conditions. Comments can be summarised as follows:

- The question surrounding the traffic generated by the proposed development and the impact on the Snelsmoor Lane/Shardlow Road junction, in particular the triggers for the scheme to signalise the junction, have been resolved satisfactorily.
- Remain a number of outstanding issues, these can be addressed by condition, including the provision of a pedestrian/cycle link on the western side of Snelsmoor Lane, the need for a signalised pedestrian crossing on the northern arm of the proposed roundabout bearing in mind that this will be the main route between the district centre and the main residential area.
- It is noted that there are pedestrian/cycle route and crossing facilities are included in the scheme to signalise the Snelsmoor Lane/Shardlow Road junction, however, bearing in mind the inherent uncertainties surrounding the timescale for this coming forward and the intention to develop this site before the junction improvement works are triggered, the Highway Authority considers that providing safe and suitable route for all users is paramount at this stage of the development.
- Difficult to demonstrate an increase in demand for these facilities in relation to the stand alone roundabout application, the demand generated by the residential and district centre will generate significant cycle and pedestrian movements to and from the site and safe facilities to accommodate, and in fact to encourage, such forms of travel are essential.
- Any future reserved matters or full application for the district centre should include evidence to demonstrate that traffic generation by the proposed uses would not exceed that illustrated in the Transport Assessment for the current proposal.

LLFA - No comments received.

Derbyshire County Council Minerals and Waste - No comments received.

1 response has been received from a member of the public in response to the consultation undertaken. This can be summarised as follows:

- a) This roundabout will be only a few metres from our house and will cause additional, noise, pollution and delays.
- b) There are -3 existing roundabouts within a 1/4 mile of Woods Meadow, all of which could provide access to the proposed development opposite Woods Meadow - it is not needed.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 - Sustainable Growth Strategy, S2 - Presumption in Favour of Sustainable Development, S3 - Environmental Performance, S6 - Sustainable Access, S8 - Greenbelt, H13 - Boulton Moor (South East of Derby), 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, INF2 - Sustainable Travel, INF5 - East Midlands Airport,

2017 Local Plan Part 2 (LP2): SDT1 - Settlement Boundaries and Development, BNE5 - Development in Rural Areas, BNE7 - Trees, Woodland and Hedgerows.

The relevant local guidance is:

Trees and Development Supplementary Planning Document (SPD)  
South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

## **Planning considerations**

The application involves remodelling works and the creation of a 4 arm roundabout with an access into a privately owned parcel of land. There is a separate outline planning application currently being considered which also proposes the same access together with various land uses including a district centre, residential, community uses and a sustainable travel scheme. However, this is not for consideration as part of this application which relates solely to the engineering operations associated with the creation of the roundabout and any road remodelling works. Therefore, the only considerations in relation to the development proposed are:

- Principle
- Highway safety
- flood risk
- biodiversity/vegetation loss
- other matters

## **Planning assessment**

### Principle

The proposals relate to works within the highway which would facilitate access north of the Thulston Brook to an area of land identified at policy INF2 for a park and ride scheme, within the wider Boulton Moor allocated housing site, which is subject to a current application including an intermodal transport hub, district centre and residential development. Only the works to create the access are for consideration as part of this application. The proposed development includes the realignment of the highway and the provision of pedestrian crossing points on each of the arms. Subsequently it is considered that the works to create the roundabout in isolation could be acceptable in principle, subject to the detailed considerations identified.

### Highway safety

The most applicable policies to consider are S1, S2, S6, SD1, BNE1 and INF2 of the LP1. Between them these policies seek that new development upholds highways safety and where intensification on the highways network is predicted either during construction or for the lifetime of the development that appropriate mitigation is suggested and implemented on site or developer contribution secured for off-site projects.

The proposed development would create a 4 arm round about on Chellaston Lane, south of its junction with Shardlow Road and the intercepting roundabout. Junction improvement and mitigation works are proposed to the highway in this location to mitigate the traffic implications of the wider residential development at Boulton Moor (conditioned as part of the BM2 permission). The current application demonstrates how the proposed works would fit in both with the existing situation and subsequent to the road improvement works being carried out thus demonstrating that the approval of the proposals would not jeopardise the mitigation scheme or result in the need to redesign any of these works.

The County Highways Authority (CHA) were consulted on the application and raised a number of points of clarification and matters to be addressed including the road alignment and visibility. The applicants have responded to these comments through the submission of a Highways Technical Note. CHA have reviewed the information and made additional comment that whilst the proposed roundabout access into the site has sufficient capacity to accommodate the quantum of development under consideration, they are cognisant of the concerns raised by Derby City Council particularly in regard to both the comparator sites selected for the purposes of determining trip ends to/ from the site, together with the inherent difficulties in quantifying the exact numbers of the different trip types, bypass, diverted, new and transfer trips and their impacts upon offsite junctions, notably Snelmore Lane at its junction with Shardlow Road. It is considered that these comments have been resolved in the review of the linked application whereby National Highways and Derby City Council Highways are accepting of the data used.

Concern has been raised in relation to the timing of the provision of a signalised junction as these proposals will come forward in advance of the trigger for the provision of the full Snelmore Lane/Shardlow Road junction signalisation scheme. However, the District Centre which is likely to generate significant use by pedestrians and cyclists, is considered under the linked application. Accordingly, it is considered that the creation of a roundabout would not necessarily generate this 'need', such that a condition to require this as part of this application would be reasonable. The concerns of the Highway Authority are noted, and it is considered that an appropriate condition can be secured through the linked application to ensure that there is a safe, signalised crossing point to ensure that the pedestrian/cycle link from that existing on Snelmore Lane, north to the junction with Shardlow Road and west to the existing facilities and bus stop is maintained.

National Highways raise no objections to the proposal considering the roundabout provision not to adversely impact on the Strategic Road Network namely the nearby A6 Thulston Roundabout.

Derby City Council Highways raise a number of points in relation to trip generation which are not relevant in relation to the proposals under consideration as part of this application (and have been address in the linked application). They do also comment that it is their view that a signalised pedestrian crossing on the northern arm of proposed roundabout is needed for highway safety reasons given that Shardlow Road will become 4 lanes, this is addressed above.

It is considered that subject to appropriate highways conditions the scheme would not result in an unacceptable impact on highway safety, or result in severe impacts on the road network and is therefore considered to be in accordance with the relevant paragraphs of the NPPF and Local Plan Policies.

#### Flood risk

The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1.

A Flood Risk Assessment has been submitted during the course of the application to support the proposals, which concludes that the site has not been subject to any significant or unmanageable flooding beyond that localized to the banks of the Thulston Brook. It is proposed to discharge the increased surface water run-off from the non-permeable areas associated with the roundabout to the Thulston Brook (as is the case currently) at an annual greenfield rate of 3.5 l/s/ha.

The LLFA have made no comments on this application. They have however commented on the linked application which includes this proposed development. Their comments are that they have no objections to the application and accompanying information submitted in support of such subject to conditions relating to surface water drainage, both post and during construction. As this application proposes nothing outside of the linked application it is considered that this response is acceptable, and that appropriate drainage can be achieved such that the proposal would not increase flood risk to others within the locality.

The Environment Agency is satisfied with the additional information submitted during the course of the application with regards to the principle of extending the culvert. They would, however, require technical details of the form and scale of the proposed culvert to ensure that it is designed such that there would be no increase in flood risk. They advise that this should be to current culvert design standards and a condition could secure this. They advise that the works will also require a flood risk activity permit under The Environmental Permitting (England and Wales) Regulations 2016, which is a process separate to that of planning permission.

It is therefore considered that any impact on flood risk can be appropriately controlled by condition such that it would be in accordance with policies S1, S2, SD2, SD3 and SD6 of the LP1.

#### Biodiversity/vegetation loss

Policy BNE3 states that the Local Planning Authority will support development which contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains where possible by protecting sites of local and national significance from inappropriate development, supporting and contributing to relevant targets for priority habitats and protecting ancient woodland and veteran trees from loss, unless the need or benefits outweigh this loss. Proposals that affect local nature reserves or wildlife sites will need to be supported by appropriate surveys sufficient to fully understand the likely impacts. Policy BNE7 states that where development could affect important trees, woodland or hedgerows developers will be expected to demonstrate the layout has been informed by appropriate surveys, appropriate measures ensure adequate root protection and buffer zones. The felling of trees should be considered in accordance with national guidance, replacements should be sought, impact on biodiversity should be minimised.

The proposals will result in the removal of some trees including Field Maple, Ash and Goat Willow. However, these have been assessed in the submitted Arboricultural Impact Assessment as being Category C trees, being low quality semi mature buffer planting, which

can be readily replaced within a scheme of soft landscaping. SDDC's Tree Officer has reviewed the proposals and the information provided to support the application and has no objections, subject to conditions related to replacement planting, root protection features and controls on excavation. It is considered that the recommended conditions would ensure compliance with the relevant policies, such that there would be no significant harm to the existing vegetation.

An update ecology walkover survey supports the application, and this makes further reference to a number of pre-existing ecological survey data to support previous proposals in the area. The survey work notes that the habitats within the footprint of the proposed roundabout comprise of cultivated arable land within the field interior and an approximately 1m wide grassy field margin and a belt of species-poor semi-improved grassland with patches of dense and scattered scrub and young trees. The survey notes that the existing culvert would be extended and that the brook at this point comprises a modified, trapezoidal channel approximately 3m in width and supporting open water and dense marginal vegetation. However, Thulston Brook does provide some semi-natural habitat within an otherwise intensively managed agricultural landscape and is an important habitat feature in this context. The survey found limited evidence of, and potential for, habitats within the proposed roundabout footprint to support protected species and low potential for birds to nest. The field interior was considered unlikely to support ground nesting birds. The habitats are also considered to be limited for bat foraging potential due to the proximity of the busy road and presence of street lighting.

DWT comments that no evidence of water vole was found on the Thulston Brook and there are not considered to be any other protected species issues as a result of the proposals. They comment that whilst four notable farmland bird species were identified as using the wider site area the habitats within and adjacent to the proposed roundabout area are unlikely to support these species. They recommend precautionary conditions in relation to mitigation but consider that the proposals would unlikely result in significant harm to ecology.

The Environment Agency originally objected to the proposals due to the culverting of 12m of the Thurlston Brook and the lack of any evidence which provided mitigation for the loss of this open watercourse and the biodiversity implications of such. Subsequent to discussions between the LPA, applicants of the EA the application was supplemented by a blue line identifying land ownership outside of the red line ('site'), Ecology Report and a Biodiversity NET gain report which demonstrates baseline data for the various habitats and post-development data (including value, distinctiveness and condition) for post-development (subject to mitigation measures/landscaping/improvement works). For the 'river' units this increased from a baseline figure of 3.05 habitat units to 4.17, providing a 36.7% increase. This is a significant uplift and in excess of the desire to see a 10% increase in biodiversity net gain across sites. The EA are now content that the proposals would not result in any significant adverse impact on biodiversity and raise no objections, subject to conditions relating to landscape management and compensatory habitat.

Having regard to the above it is considered that the proposals are acceptable in that they would not result in a significant impact to biodiversity, and as such, subject to conditions are in accordance with BNE3 and BNE7 of the Part 1 and Part 2 Local Plan.

#### Other matters

There are not considered to be any significant detriment to amenity through noise and disturbance beyond the period of construction and it is considered that these impacts can be controlled and mitigated through a condition requiring a Construction Environment

Management Plan.

There are not considered to be any impact on archaeological remains as a result of the proposals.

There is not considered to be any impact on any finite resources or any permitted working areas for mineral extraction. Derbyshire County Council have been consulted on the application in this regard and made no comments on the proposals.

It is therefore considered that the application is in accordance with the adopted Development Plan and Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990, given there are no material considerations to suggest otherwise the application is recommended for approval subject to conditions.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref.  
District Centre - Access Roundabout Site Boundary RG-M-2019, received 20th June 2022;  
Proposed Site Access Layout E702-PL-SK-246 Rev C;  
Site Access Layout tie in detail to committed Shardlow Works E702-PL-SK-247 Rev C;  
Chellaston Lane General Arrangement Drawing E702-DD-DR-030 Rev P01;  
Junction 3 Chellaston Road Roundabout Engineering Layout Sheet 1 Drawing E702-DD-DR-230 Rev P01 Engineering Layout 1 of 2;  
Junction 2 Shardlow Road/Snelsmoor Lane General Arrangement Sheet 2 Drawing E702-DD-DR-231 Rev P01 Engineering Layout 2 of 2;  
Chellaston Lane Cross Sections Sheet 2 of 2 Drawing E702\_DD\_DR\_633 Rev P01 Proposed Cross Section Southern Approach;  
Chellaston Lane Cross Sections Sheet 1 of 2 Drawing E702\_DD\_DR\_633 Rev P01;  
Chellaston Lane Long Sections Sheet 2 of 2 Drawing E702-DD-DR-631 Rev P01;  
Swept Path Analysis Single Deck Bus Drawing E702-PL-SK-255;  
Swept Path Analysis 11.2m Refuse Vehicle Tracking Drawing E702-PL-SK-25;  
Swept Path Analysis Fire Tender Tracking Drawing E702-PL-SK-254;  
Swept Path Analysis 16.5m Articulated HGV Drawing E702-PL-SK-252;  
received 1st September 2021, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development, including preparatory works, shall commence 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:
  - (a) a risk assessment of potentially damaging construction activities;
  - (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
  - (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, hand dig excavation zones, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
  - (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
  - (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
  - (f) responsible persons and lines of communication; and
  - (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts to protected and non-protected interests and in accordance with policy BNE3 and SD1 of the Local Plan Part 1 and policy BNE7 of the Local Plan Part 2.

4. Any lighting installed as part of the proposed development, including highways lighting shall be capped at the horizontal so as to avoid light spillage in a upward direction.

Reason: In the interests of aviation safety and in accordance with policy INF5 of the Local Plan Part 1.

5. The development shall be carried out in accordance with the nesting birds and badger mitigation measures recommended in the Update Ecology Survey letter report prepared by Penny Anderson Associates Ltd dated 23rd August 2021.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts and in accordance with BNE3 of the Local Plan Part 1.

6. Prior to the first use of the development a 3m wide footway and cycleway shall be provided connecting the existing provision to the south up to the approved roundabout (east of Chellaston Lane) and northwards (west of Chellaston Lane) to the existing provision on Shardlow Road. Details of this shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable travel and highway safety and in accordance with policy INF2 of the Local Plan Part 1.

7. Development permitted under this application shall not commence until an assessment of the impact of the works on the Thulston Brook has been undertaken and a compensatory

habitat scheme has been submitted to and approved in writing by the Local Planning Authority.

Reason: The proposed development has the potential to impact on the ecological value of the brook. Further works are required to quantify this impact and any subsequent mitigation which may be required to make this acceptable in accordance with paragraph 180 of the NPPF.

8. No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for any compensatory habitats required by condition 7, shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority. The scheme shall include the following elements:

- details of maintenance regimes of new and existing habitats
- details of any new habitat created on site including attenuation basins
- details of enhancements to the Thulston Brook
- details of treatment of site boundaries and/or buffers around water bodies
- details of management responsibilities for the 30 year maintenance period

Reason: To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with national planning policy and policy BNE3 of the Local Plan part 1.

9. Prior to the commencement of the development a detailed design of the proposed culvert shall be submitted to, and approved in writing by, the local planning authority. The scheme shall include details of the proposed and existing culvert including operation and maintenance details including further owners and shall be fully implemented and subsequently maintained, in accordance with these details.

Reason:

To ensure that the culvert is built to current design standards and does not increase flood risk elsewhere and in accordance with policy SD2 of the Local Plan Part 1.

10. 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.

11. The roundabout, hereby approved, shall be laid out and constructed generally in accordance with the revised application drawings contained in Technical Note RSA01 but in accordance with detailed drawings that shall be first submitted to and approved in writing by the Local Planning Authority. The roundabout shall be constructed in accordance with Derbyshire County Council's specifications for adoptable roads. For the

avoidance of doubt, the applicant will need to enter into an Agreement with Derbyshire County Council under Section 278/72 of the Highways Act 1980.

Reason: In the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

Informatives:

Highways

- a 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. The appellant should be aware that this will be the subject of separate approval. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Place Department at County Hall, Matlock [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) or call 01629 533190. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- b Construction works are likely to require Traffic Management. Advice regarding procedures should be sought from Derbyshire County Council's Traffic Management section (01629 538686). All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/roadworks/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp)
- c For the avoidance of doubt, a signalised crossing to the north of the roundabout and the provision of a footway/cycleway linking the existing pedestrian/cycling facilities on Snelsmoor Lane and Shardlow Road will be required as part of the district centre development served by the roundabout

**Item No.** 1.6

**Ref. No.** [DMPA/2021/1378](#)

**Valid date:** 06/09/2021

**Applicant:** Aldi Stores Ltd.

**Agent:** Planning Potential Ltd.

**Proposal:** **Erection of food store (Use Class E), with car parking, landscaping, and associated works at Land north of Drift Road, Castle Gresley, Swadlincote, DE11 9FW**

**Ward:** **Castle Gresley and Linton**

### **Reason for committee determination**

Cllr Dan Pegg, Ward Member for Linton, has requested that the application is presented to the Planning Committee as local concern has been expressed about a particular issue, and the committee should debate the issues in this case which are finely balanced.

### **Site Description**

The application site is an undeveloped area of land situated to the east of the A444, north of Drift Road, and is surrounded by a mix of commercial buildings to the north, and a recently developed residential estate built by St. Modwen Homes opposite the site, across Drift Road, to the south/east. To the north-east on the same side of Drift Road is further land which was granted permission in outline for commercial development alongside the application site and the residential development, but this remains undeveloped at this time. It is, however, subject to an undetermined reserved matters application for commercial units which would lie adjacent to the development subject to this application. The land levels are such that the land falls away significantly as you move eastwards away from the A444.

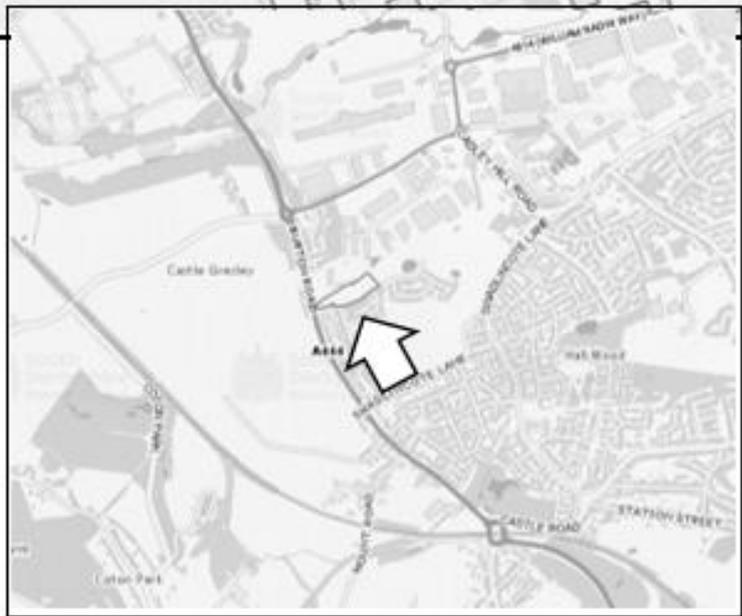
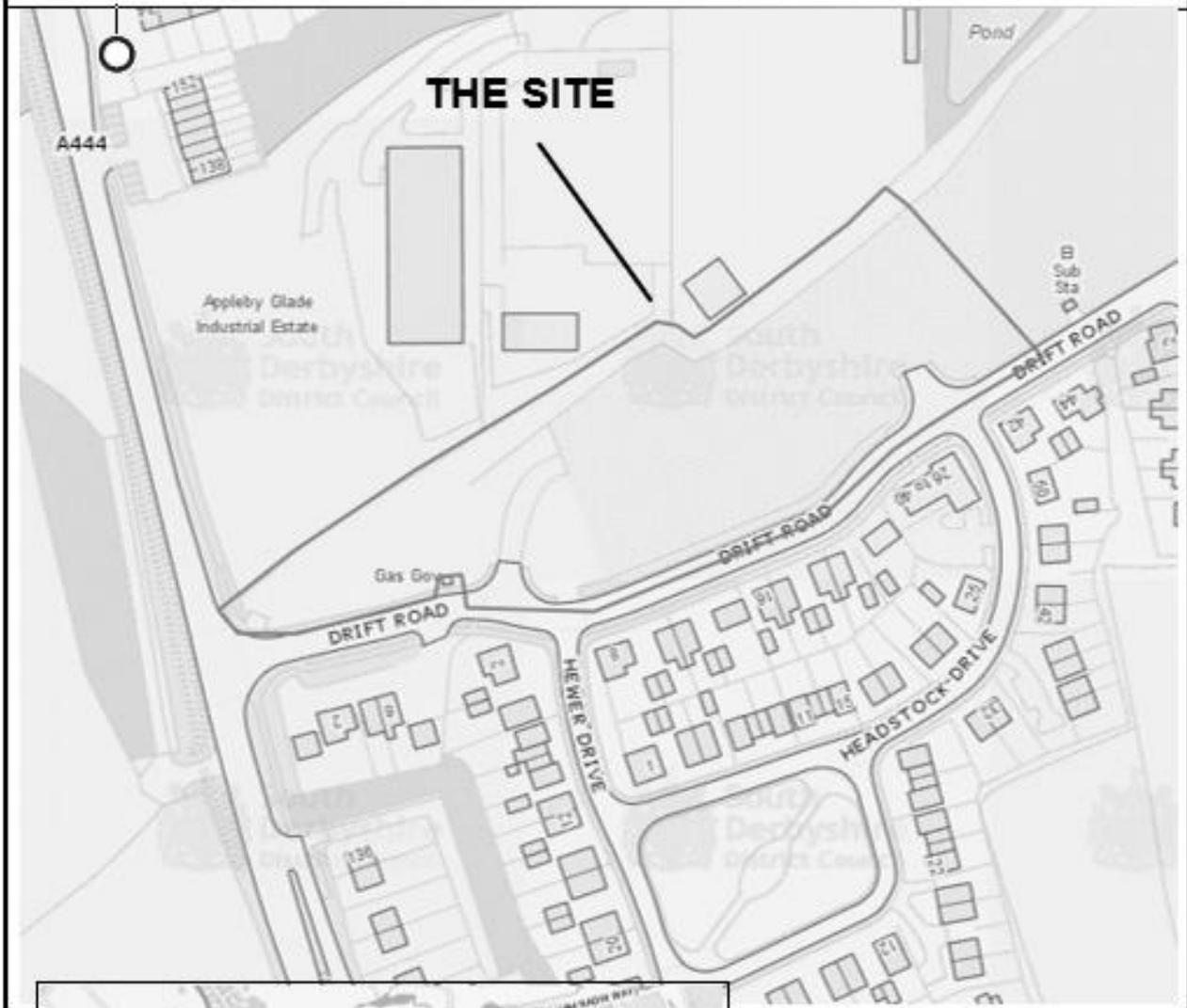
### **The proposal**

The proposals seek permission to erect a standalone retail foodstore for Aldi with a gross internal area of 1,900 sqm, of which 1,315 sqm would be the net sales area. Access to the car park for both customers and servicing, would be from a new single access point on Drift Road. The store would be single storey with a monopitch roof, although, due to the land levels falling away significantly, the north-eastern, rear, elevation would be more exposed than the store frontage. The proposed store would be sited to the eastern side of the site, side on to Drift Road. Car parking for 130 cars is proposed and this would be located in front of the store, to the western end of the site. To ensure a level car park and store entrance the car park would be dug-into the land to the west with a retaining wall clad in timber towards the A444 and part of Drift Road. The remaining land between the car park and the A444 would be maintained at the current, sloping higher level, and provided with planting. Further areas of landscaping would be provided between both the car park and Drift Road, and the side of the store and Drift Road, as well as to the rear and northern side elevations.

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

Geo-Environmental Appraisal (GEA) – The GEA looks at the history of the site and examined issues in regards to coal mining and potential contamination. The report did not identify matters which needed further assessment in planning terms.

**DMPA/2021/1378 – Land north of Drift Road, Castle Gresley, Swadlincote, DE11 9FW**



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Drainage Strategy – Sets out how surface and foul water will be managed on the site. All facilities will be privately managed with connections to Drift Road. Surface water will be managed on site with attenuation in the form of geocellular storage tanks beneath the car park and hydrobrakes to control off-site flows, ultimately discharging to the surface water drainage pipes in Drift Road.

Preliminary Ecological Appraisal (PEA) – States that the site is comprised mostly of hardstanding, but there are some semi-natural habitats present such as amenity grassland and ephemeral/tall herb vegetation associated with the edges of the site and a bund within the site. It states that biodiversity net gain should be delivered through landscaping, lighting should be designed in accordance with best practice, bird nesting season avoided, not leaving excavations uncovered, and Cotoneaster should not be allowed to spread in the wild but carefully removed or left in situ.

Noise Impact Assessment (NIA) – Assessed ambient noise levels representative of surrounding noise sensitive areas. BS 4142:2014 rating level limits have been proposed for the new fixed plant installations, set on a par with the otherwise prevailing background noise levels. A BS 4142 assessment of the noise from servicing and delivery operations was undertaken, with an initial assessment of impacts ranging from low to adverse. However, when taking into account the transient nature of the delivery noise, as well as the existing noise climate, servicing and delivery noise is considered to represent a low impact.

Statement of Community Involvement (SCI) – States that residents, stakeholders and elected members were given the opportunity to give their feedback regarding the proposals via a number of dedicated response mechanisms. An information line was made available throughout the course of the planning stages, for interested parties to receive further information and provide their feedback to the project team. Community newsletters detailing the application proposals along with freepost feedback forms were issued to over 5,000 local addresses. Aldi has received an overwhelming positive response for the proposed development, with 80% of consultees in support of the proposals. Feedback from stakeholders and the local community has been reviewed and, where possible, have informed the proposals

Design and Access Statement (DAS) – Describes the approach to the design of the proposals, how access arrangements will be provided, the landscaping proposals, energy efficiency, as well as waste management arrangements.

Transport Assessment (TA) - The report states that the development will be accessible by a range of travel modes and the scheme has been developed to accord with current national and local transport policies, including those set out within the Derbyshire Local Transport Plan 3 (LTP3) and NPPF. It concludes that the site is accessible on foot and cycle from the residential areas to the south and east and that a range of key facilities and services can be accessed from the site, supporting future employees and linked trips for customers. It states that the traffic generation associated with the development proposals based is forecast to generate some 195 and 259 two-way vehicle trips during the Friday PM peak and Saturday lunchtime peak hours respectively. It states that a Travel Plan has also been prepared which sets out measures to encourage sustainable travel patterns and reduce the reliance on private car use. It states that the traffic associated with the development proposals can be accommodated on surrounding highway network without having a severe impact in accordance with the NPPF. On that basis it states that there are no overriding traffic and transportation reasons preventing the local highway authority from recognising that the proposals are acceptable, nor why planning permission could not be granted.

Interim Travel Plan (ITP) – The document summarises the accessibility of the site and outlines a range of Travel Plan measures which will be promoted to employees to encourage sustainable travel patterns at the site. This document provides an outline of the proposed measures and monitoring strategy, which will be implemented at this site. It states that measures within the Travel Plan will focus primarily on staff travel because there is a good potential for a high level of staff trips to the store to be made using sustainable modes.

Planning and Retail Statement (PRS) - The PRS sets out the planning policy background to the application. It contains a Sequential Assessment of available sites, looking at Swadlincote town centre sites as well as local centres, but concluding none were either available or suitable. In terms of retail considerations, it states that Swadlincote Town Centre has a relatively low vacancy rate, experiences reasonably busy footfall, has a high-quality public realm, low levels of anti-social behaviour and a mix of patrons. The most popular stores are Morrisons, Sainsbury's and Aldi, and they state that popularity of the existing Aldi store instigated Aldi's aspiration for a second store in the area. The impact on turnover of Morrisons is likely to be 4%, with an 8% impact on Sainsburys and Lidl respectively. The report states that the main impact will be on the town's other Aldi store which would see a 22% impact, but this is overtrading and there is no scope to expand it. It concludes that there would be no significant impact on the town centre.

In terms of local centres, the assessment expects a 12% impact for Tesco Express on Common Road, and 8% impact on Sainsburys Local on Glamorgan Way, which the report again states would not be a significant impact.

It concludes that there would be no significant adverse impacts on existing investments and that the vitality and viability of the town centre would not be significantly adverse.

In terms of loss of employment land, the report states that the site has been extensively marketed without success since 2011. It states that council evidence suggests there is a supply of 129.36ha of employment land, well in excess of the forecast need of 47.27ha, therefore the loss of this employment site will not be detrimental on supply. It should be noted that 40 new jobs will be created as a result of the development.

The report considers the proposed design to be appropriate, the highway network able to accommodate the development, with flood risk and contamination not being significant issues. It also states that ecological interest have been addressed and that noise and light pollution would not be significant.

### **Relevant planning history**

The most relevant planning permission is 9/2012/0743 which is an outline application (all matters except for access to be reserved) for mixed use development comprising residential (C3) and employment (B1 and/or B8), access, road and associated infrastructure, parking, public open space and landscaping and which was approved on 14<sup>th</sup> June 2013.

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

Environmental Health Officer – No objection in principle subject to a condition limiting noise from plant to 35dBA between 07.00 to 23.00, and 25dBA between 23.00 to 07.00; limiting the store opening to between 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays; and deliveries limited so that they only take place between 07:00 to 22.00 Monday to Saturday and 09.00 to 17.00 Sundays and Bank Holidays. He also requests details of a Delivery

Management Plan which sets out measures to minimise noise generated from deliveries; that external lighting be provided in such a way that it avoids light intrusion into neighbouring residential windows which would exceed 5 Ev (lux). Further conditions re: EV recharging points and unexpected contamination are also requested and informatives are requested relating to food businesses, hygiene, and health and safety.

Derbyshire Wildlife Trust Officer – No objection subject to a condition to require the submission of a copy of the signed Great Crested Newt District Level License and the implementation of the proposed landscaping scheme to secure Biodiversity Net Gain.

The Environment Agency – No objection subject to a condition relating to unexpected contamination.

The Coal Authority – No objection but request an informative relating to expected coal mining related hazards.

Police Force Designing Out Crime Officer – No objection in principle but would want to see an external CCTV scheme for formal monitoring of vehicle and pedestrian movement routes, car parking areas, the store building envelope particularly including the proposed cycle store. He advises that the cycle store should be repositioned into a more open and convenient position.

County Highways Authority – No objection – They noted that the parking spaces measure 5m in length rather than the recommended 5.5m, but since the manoeuvring space behind the spaces measure at least 7m rather than the minimum 6m normally requested, this is not a concern in highway safety terms. They have welcomed the financial contribution of £5,075 for Travel Plan monitoring as well as a contribution of £20,000 towards the current shortfall for the provision of a cycle path link between Ryder Close and Drift Road.

The National Forest Company – Requested 20% of the site area to be woodland planting and landscaping which would equate to 0.22ha. It appears that there is sufficient space on site to requisite planting on site, however, if the applicant is unable to provide on-site National Forest planting, a financial contribution in lieu of on-site provision would be required which would be £7,700.

Castle Gresley Parish Council – Request consideration of traffic lights and traffic calming on Drift Road; the resiting of the recycling centre; amending deliveries to between 07.00 and 20.00; the provision of click and collect; and the payment of a sustainable environment grant of £30,000 towards the implementation of a roadway on the Mount Pleasant Recreation Ground to allow all residents to access the site safely and utilize the area for physical activity, play, and community events.

23 letters of objection received from the public raising the following comments:

- a) The A444 and Drift Road is a very busy junction, and this will increase congestion on Drift Road as people cannot get on to the A444.
- b) Access should be from Cadley Road/Ryder Close or William Nadin Way.
- c) The existing Aldi will close, and those customers will come here.
- d) We were told the land would be a small retail business not a large supermarket.
- e) It is an unsuitable site as it would be squeezed in between industrial and residential.
- f) Residents of our quiet, semi-rural estate will be subject to the view of a giant supermarket directly opposite.
- g) There will be additional noise and traffic.

- h) People bought these homes as they were quiet, this will be completely disrupting.
- i) After the pandemic, people will now have to put up with this noise and disruption.
- j) Our estate opposite has lots of young children with narrow roads, play area with kids playing out on bikes. The lorries and other traffic will mean their lives will be at risk.
- k) This is not a typical suburban estate – we have built our own community with a safe village feel. We are not a town; we are a village – this does not belong here.
- l) The access to the A444 is ludicrous, where traffic speeds and does not stick to 40mph.
- m) There will be queues to leave the estate to the roundabout which is not safe even now.
- n) Residents will be subject to daily abuse from drivers – like the Lidl/McDonald's junction in Swadlincote.
- o) People already ignore the white centre line.
- p) Moving the store here will increase traffic and mean people will no longer be able to walk to a store.
- q) It should be where people can get to – shouldn't we be cutting down on traffic?
- r) There has been an accident on the A444 as people look to access bus stops and the rural area – there are no crossings.
- s) As a resident of Bath Road people from Castleton Park cut through to our estate – this is not a public right of way – this will increase and lead to anti-social behaviour and signs should be erected.
- t) Lighting will be an issue, shining into our bedrooms.
- u) There will be no more jobs as the town centre store will close.
- v) We need a small retail area, a local corner shop that is more personal not a conglomerate – it will add nothing.
- w) There are outlier industrial estates better suited.
- x) It can take 5 minutes to get on to the A444 even now.
- y) It will be an eyesore – it should be a small, local retailer.
- z) Cars will park on the street, blocking drives.
- aa) There will be no access in winter – even though it is gritted.
- bb) It will increase crime on the estate.
- cc) Traffic data was after lockdown – it should have been when children are in school.
- dd) I hope traffic management will be in place.
- ee) HGVs crash into homes in winter – will Aldi be responsive for doing gritting?
- ff) Delivery times at 6am is too early.
- gg) HGVs won't be able to access the site if residents are parked on the road.
- hh) I was told the land would be used for housing – I would not have bought my house otherwise.
- ii) It is not accessible for those who do not drive.
- jj) Our properties will be overlooked and no longer private.
- kk) The class of people who shop at Aldi drop dramatically – they are rude, pushy, and disrespectful – lowering our community standards.
- ll) Deliveries in the middle of the night will lead to noise pollution.
- mm) They should use the existing access and use traffic lights or a mini roundabout.
- nn) I live opposite and will not be able to get off my drive.
- oo) Why are they offering more car parking than other standalone stores? Is it because traffic will be worse than predicted?
- pp) There is no safe crossing across the A444.
- qq) We are already woken from 4am on a regular basis by Keystone's factory.
- rr) There will be noise from loading/unloading.
- ss) As a country we should be cutting emissions – allowing a supermarket will increase carbon footprint, something the council should not allow – moving out of town will increase it.

- tt) We have wildlife and hear owls and woodpecker. There are rabbits and hedgehogs, plus dogs and cats.
- uu) There will be noise, light, and air pollution.
- vv) Could it not go on the Bison site?
- ww) Drift Road should be widened.
- xx) Erect a fence with planting to reduce noise and light pollution.
- yy) Why create a brand-new entrance when they could use an existing one closer to the main road and not opposite any houses.

96 letters of support received from the public raising the following comments:

- a) I am in favour as the existing Swadlincote store is not big enough, so we use Ashby as parking is easier.
- b) I am all for the store.
- c) As a 77-year-old disabled lady this would be very good for me as it is local.
- d) Parking at the existing Swadlincote store is bad, so one at Castle Gresley will be good.
- e) This would be more convenient in terms of access, parking, and locality.
- f) I have no objection at all.
- g) I am in favour.
- h) It will provide good, affordable shopping.
- i) It would benefit elderly local people who must travel to Swadlincote.
- j) It would be a good shop near my home.
- k) It is needed with hundreds of homes being built in the area.
- l) Many new jobs will be created
- m) We welcome a low-cost supermarket on our doorstep.
- n) It will be a big boost for the area, I hope the parking is adequate.
- o) The sooner the better.
- p) This is an amazing idea so we have a store at this end of town.
- q) The existing store has a parking problem, I now have to park near the cinema.
- r) It would provide affordable local shopping, reducing carbon footprint.
- s) More jobs the better – as an ex-miner there were no jobs when the pits closed.
- t) Whilst supporting will the junction with the A444 be able to cope?
- u) We welcome the store and a bus service to Swadlincote and Castle Gresley would be even better.
- v) The new store would be good - will the other store stay open?
- w) More competition means better prices.
- x) This would make life a lot better for us.
- y) Whilst not benefitting me, it would help others.
- z) It will reduce my journey by 50% as I currently have to travel to the Swadlincote store
- aa) We need this.
- bb) It would be good to be able to walk rather than drive or take a bus.
- cc) It is welcome but please put toilets in the building.
- dd) We support it as it will provide affordable food and lead to competition.
- ee) It will help reduce congestion in Swadlincote town centre.
- ff) This is welcome – please try for a post office.
- gg) It will help free up parking spaces for other shops in Swadlincote near their other store.
- hh) Click and collect would be useful.
- ii) It is good it will not be sharing its car park with other retailers.
- jj) I would not shop anywhere else.

It should be noted that a further public reconsultation will be undertaken on amended designs for the building and any further comments received on those amended plans will be provided as an update to the Planning Committee meeting.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 - S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), S7 (Retail), E1 (Strategic Employment Land Allocation), 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), INF8 (National Forest).

2017 Local Plan Part 2 – SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows), RTL1 (Retail Hierarchy), RTL2 (Swadlincote Town Centre Potential Redevelopment Sites).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document  
Cycling Strategy  
Section 106 Agreements - A Guide for Developers  
Draft Planning Obligations – A Guide for Developers and Applicants

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (NPPG)  
National Design Guide

### **Planning considerations**

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

- The principle of the development;
- Impact of the development on highway safety and sustainable transport;
- Impact of the development on biodiversity;
- Design and residential amenity,
- S106 Agreement, and
- Other matters.

### **Planning assessment**

The principle of the development

The application site lies within the settlement boundary and as such is, in principle, suitable for development. Indeed, the site benefits from an outline permission for commercial development by virtue of the outline planning permission reference 9/2012/0743 which approved a mixed-use development comprising residential, and employment development on 14th June 2013.

That permission approved the current application site for use as the commercial element of that scheme. Furthermore, the site falls within an employment allocation within Local Plan Policy E1. As such considerations of the principle of developing the land commercially is long established therefore considerations must move to the specifics of the current scheme taking into account that backdrop. In principle terms, therefore, the proposed development must be further considered in terms of the loss of the employment land that would be result, and the provision of a retail development in this location.

In terms of employment land, the proposal would result in the loss of part of an allocated area measuring 1.08 ha. In the Planning and Retail Statement (PRS) the applicant notes that there is a surplus of employment land across the district, measured against the target identified in Local Plan Policy S5 (para 8.6), however, the majority of this land is located in the northern part of South Derbyshire. The loss of part of the allocated site would therefore be a concern in terms of achieving a sustainable balance of housing and jobs growth in the Swadlincote urban area, although the applicant states that the proposal would in itself create in the region of 40 full time equivalent jobs. It is further noted that whilst the owner has unsuccessfully marketed the site for employment development over a number of years these efforts can be criticised for concentrating on design and build as a route to employment delivery, rather than offering more flexible terms. However, in light of the overall substantial surplus of employment land in the District and the fact that the proposal would generate employment it is considered that the loss of part of this site would not be a sound basis on which to resist the development.

In terms of retail provision in this location Local Plan Part 2 Policy RTL1 part A states that applications for new main town centre uses outside of Swadlincote town centre and local centres will be subject to a sequential test (as referred to in NPPF para 87). Part E states that outside of centres all retail proposals over 1,000 sqm gross will be required to submit a detailed retail impact assessment to measure the impact of the proposal on the vitality and viability of nearby centres and on committed and planned investment in those centres. The RPS indicates that the applicant has undertaken a sequential test to demonstrate lack of currently available alternative sites within, or on the edge of, Swadlincote town centre, and other retail locations. Looking at the evidence it is accepted that there are no sequentially preferable sites to accommodate the development.

The impact assessment includes a 'health check' of Swadlincote town centre as recommended by National Planning Policy Guidance, which among other things observed low vacancy rates. This is consistent with annual town centre benchmarking work commissioned by the Council which also demonstrates low vacancy rates. The applicant has advised that the popularity of the existing Aldi store instigated the applicant's aspiration for a second store in the area. Based on a household survey alongside population and expenditure data the applicant states that in terms of turnover, the impact on Morrisons is likely to be a 4% reduction, with an 8% reduction at Sainsburys and Lidl respectively but that the main impact will be on the established Aldi store which would see a 22% reduction. The applicant states that the Aldi store is overtrading and there is no scope to expand it. These conclusions are considered reasonable and on the basis of available evidence it is considered unlikely that the proposed retail development would have a significant adverse impact on the vitality and viability of the town centre.

In terms of local centres, the applicant's assessment states that there is likely to be a 12% reduction in turnover for the Tesco Express on Common Road, as well as an 8% reduction for the Sainsburys Local on Glamorgan Way. These conclusions are considered reasonable and on that basis it is considered that the proposed retail development would not have a significant adverse impact the vitality or viability of local centres.

It is considered that there would be no significant adverse impacts on existing, committed, or planned investments and that the vitality and viability of Swadlincote town centre would be unlikely to be significantly adversely affected. In light of the above the principle of the development in terms of loss of employment land and retail matters is considered to be acceptable.

#### Impact of the development on highway safety and sustainable transport

The application site is well located in terms of the highway network with the A444 adjacent to the west, accessed via a T-junction from Drift Road from where the proposed store would take its access. The A444 benefits from public transport links with the A444 being the route of services linking Swadlincote with Burton-upon-Trent and as such the site is accessible by a range of means of transport, as well as the private car. The site also lies close to a proposed local cycle route which would connect Swadlincote Lane to the east through to Cadley Hill Road via Ryder Close. This would then ultimately connect to the employment sites at Cadley Hill Industrial Estate, Tetron Point, and William Nadin Way with its leisure facilities, housing, and other communities nearby.

It is clear from the public representations received that users of Drift Road at times experience significant issues getting out on to the A444. However, the housing estate that has been built and the remainder of the land which also benefits from planning permission were approved with that junction arrangement and there is no basis on which to insist on that junction being changed as a result of this proposed development. The application documents demonstrate that the highway network has sufficient capacity to accommodate the proposed development. Following discussions with the County Highway Authority they raise no objection to the revised plans which have been received and which demonstrate to their satisfaction that the proposed access would be provided with the requisite access radius. The development would be provided with a safe access with adequate parking to serve the resulting development. Whilst parking spaces are marginally shorter than the design standard, being 5m in length as opposed to 5.5m, adequate space for vehicles to reverse from all spaces, and for them to turn, is provided.

The County Highway Authority have requested a financial contribution towards the proposed cycle route referred to above. The applicant has indicated that they would be prepared to contribute towards the delivery of that project, with £20,000 being offered by them towards sustainable transport measures, which could include that project. This amount is considered acceptable to the County Highway Authority.

Accordingly, notwithstanding the comments received, in highway safety terms, as well as in terms of sustainable transport, the proposals are considered to be acceptable and would not result in demonstrable harm to highway safety.

#### Impact of the development on biodiversity

The most applicable policies to consider are BNE3 and BNE7 of the LP1. Between them these policies seek to ensure that planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: internationally important sites; nationally important sites (such as SSSIs); Sites of County Importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites); Ancient woodlands, veteran trees and hedgerows and priority habitats and species will need to be supported by appropriate surveys and assessments sufficient to allow the Authority to fully

understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

The Preliminary Ecological Appraisal (PEA) accompanying the application correctly identifies the existing site as having very limited ecological value. Derbyshire Wildlife Trust (DWT) originally advised that Great Crested Newts in the area may be affected and on that basis the applicant submitted supplementary information in the form of a District Level Licence (DLL) to secure an appropriate financial contribution payable to Natural England to enhance ecology elsewhere to off-set any adverse impact on those protected species. This has been agreed by DWT and the completion of this can be addressed by way of the imposition of a suitably worded planning condition. The revised landscaping details have also enabled DWT to confirm that once implemented it will ensure that there is an appropriate level of Biodiversity Net Gain at the site, with measurable net gain for biodiversity in the form of +14.66% of habitat and +47.96% of hedgerows. On that basis, notwithstanding the comments received, it is considered that the proposal complies with the NPPF and policy BNE3 of the South Derbyshire Local Plan, and therefore, in ecological terms, the proposals are considered to be acceptable.

### Design and residential amenity

Policy BNE1 states that new development should be visually attractive, appropriate, respect important landscape, townscape and historic views and vistas, contribute to achieving continuity and enclosure within the street scene and possess a high standard of architectural and landscaping quality.

The application seeks to position the store to the east of the site taking up much of the depth of the site with the building. The main front entrance is proposed to face south-westwards towards the customer parking areas to the west. That elevation provides an appropriate store frontage with a good level of active frontage. The Drift Road elevation was amended during the course of the application to enhance it with the provision of glazing wrapping around the corner from the front of the store to the side, a band of windows, areas of timber cladding, and a timber clad signage zone, as well as a landscaping strip containing trees and shrubs to soften that appearance from Drift Road. Whilst the rear elevation is relatively unremarkable, there are areas of trees and shrubs to that boundary also proposed and there is also likely to be further development on that adjacent site which is subject to an application for commercial development. The car parking area has been punctuated with areas of landscaping and landscaping also proposed on the Drift Road frontage to the car park. The land between the car park and the A444 is to be provided with more natural landscaping in order to help to deliver the Biodiversity Net Gain for the scheme, in line with DWT's comments. Timber fencing to the face of the retaining structures to the car park help to link the car park to the store's material palette and reinforces the National Forest location of the site. Overall, in terms of built form the proposed development provides a suitable form of development that, notwithstanding the comments received, would sit appropriately in what is the commercial zone of what was always envisaged as a mixed-use development site.

In terms of impact on residential amenity the introduction of significant developments such as this, close to residential properties, will inevitably lead to adverse impacts on the amenity that occupiers of nearby properties currently enjoy. However, it must be remembered that this site has permission to be developed for commercial purposes and this was always the intention

when the original planning permission was approved. The building, whilst sizeable and opposite residential properties, is sufficiently far away so as not to be overbearing, or lead to any loss of light or overshadowing to reasonably justify refusal. It is noted that the Police Force Designing Out Crime Officer raises no objection wishes to see an external CCTV scheme for formal monitoring of vehicle and pedestrian movement routes, car parking areas, the store building envelope particularly including the proposed cycle store. He also requested the cycle store be relocated to a more open position. The cycle store is now proposed to be adjacent to the store entrance and appropriate CCTV can be secured by way of a planning condition.

The applicant has designed the store in such a way that the loading bay for deliveries is away from residential properties in order to reduce the noise impacts associated with delivery vehicles. It is noted that the Council's Environmental Health raises no objection to the proposal subject to, amongst other things, a noise limit from plant of 35dBA between 07.00 to 23.00 and 25dBA between 23.00 to 07.00; limiting the store so that it is only open between 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays; and deliveries limited so that they only take place between 07:00 to 22.00 Monday to Saturday and 09.00 to 17.00 Sundays and Bank Holidays. He also requests details of a Delivery Management Plan to minimise noise generated from deliveries, and the lighting be provided in such a way that avoids light intrusion into neighbouring residential windows exceeding 5 Ev (lux).

These controls can be imposed by way of suitably worded conditions and with these in place it is considered that, notwithstanding the comments received in the letters of representation, the impact on the amenity that the occupiers of nearby residential properties would not be so significant so as to reasonably justify refusal of the application.

### S106 Agreement

The proposed development is accompanied by a Travel Plan and in order for the County Council to monitor that Travel Plan, a fee of £5,075 is required. Also, as the site is located within the National Forest, The National Forest Company, in line with adopted policy, require the proposed development to provide the requisite amount of tree planting on-site, or to make a payment through a S106 Agreement to provide off-site planting instead. However, the applicant has designed the landscaping within the site with a view to ensuring that Biodiversity Net Gain is achieved and as such they have elected to provide a financial contribution of £7,700 to provide off-site tree planting, in lieu of on-site tree planting. The County Highway Authority have also requested a contribution from the developer towards the shortfall for a proposed cycle link between Ryder Close and Drift Road. The total of that shortfall currently stands at £29,000 and the applicant has agreed to pay £20,000 towards that project to assist in sustainable transport measures and help connect the jobs on offer at the development with other communities in the area.

It is recommended that the above matters are secured to ensure that the impacts of the development are adequately mitigated and as such they will need to form part of the S106 Agreement associated with the planning permission.

### Other matters

The site is a brownfield site and the request from the Council's Environmental Health Officer and Environment Agency in regards to addressing any unexpected contamination are noted and can be controlled by condition. The history of the site is such that coal mining legacy is a material consideration be the submitted reports address this issue and the informative requested by The Coal Authority is noted.

The request from the Council's Environmental Health Officer for EV charge points for 10% (13) of the parking spaces is noted and with the shift from internal combustion engines to EVs is gathering significant pace and with the government looking at ending the sale of new petrol and diesel cars and vans by 2030, demand is only likely to rise. The government has recently amended the Building Regulations to start to address this issue and they require developments like the one proposed to be provided with one electric vehicle charge point as well as one fifth of the remaining parking spaces to be provided with cable routes for electric vehicle charge points.

In this case the applicant will be required under Building Regulations to provide one EV charge point initially, with a further 26 (20%, or one fifth) spaces provided with cable routes for electric vehicle charge points. The current proposal is to provide 4 EV charge points initially (3%) with a further 22 (17%) being provided with cable routes for electric vehicle charge points. There is no prescriptive standard either in local or national planning policies which requires a developer to provide a certain number or proportion of parking spaces with electric vehicle charge points or cable routes for electric vehicle charge points. However, officers and the applicant are both of the opinion that such infrastructure is reasonable and necessary to be provided for. On that basis it has been suggested that, notwithstanding the submitted details, at store opening the development ought to be provided with 4 parking spaces each with one electric vehicle charge point, with a further phase consisting of 10 electric vehicle charge point provided for a further 10 spaces within a timescale to be controlled by condition, post store opening. Additionally, cable routes for electric vehicle charge points to allow the developer to connect further charge points as demand increases in future should be provided for in line with the current Building Regulations requirements i.e., one fifth (20%), or cable routes to allow connection for a further 13 spaces. This approach is reasonable and a condition to reflect this approach is deemed necessary to ensure that sustainability objectives are achieved.

The comments of Castle Gresley Parish Council in regards traffic lights and calming on Drift Road are not considered to be reasonable or necessary to ensure that the highway safety aspect of the scheme is acceptable. The recycling facility has now been omitted from the revised scheme and the hours of deliveries will be controlled through condition to avoid a 06.00 start. The request for the provision of click and collect is not something that can be insisted upon through the planning process as it is a business decision for the applicant as to whether such facilities are provided. Furthermore, the request for the payment of a sustainable environment grant of £30,000 towards the implementation of a roadway on the Mount Pleasant Recreation Ground is not a matter that is directly to the development, reasonable for the applicant to provide, or necessary to mitigate the development. Furthermore, there is no policy basis on which to request the applicant to pay for such a scheme.

### Conclusion

The application site is considered to be an acceptable location for the proposed development and would create an appropriate form of development in this area. The proposal would not unduly adversely affect highway safety or the amenity of occupiers of neighbouring properties. The proposal is deemed to comply with the relevant planning policies and is recommended for approval, subject to the applicant entering into a S106 Agreement to cover the matters set out above.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition.

Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## **Recommendation**

**Approve** subject to the following:

**A.** The applicant entering into a S106 Agreement to secure the matters identified in the main report.

**B.** Subject to A, Approve the application subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans:

- P001 Site Location Plan
- P002 Existing Site Plan
- P003 Proposed Site Plan – Revision B
- P004 Proposed Site Sections
- P006 Proposed Site Master Plan – Revision A
- P200 Proposed Floor Plan
- P201 Proposed Elevations – Revision B
- P203 Proposed Roof Plan

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

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

3. The total amount of net retail sales floorspace in the foodstore hereby approved shall be limited to a maximum of 1,315 square metres, of which no more than 20% should be devoted to the sale or display of comparison goods.

Reason: To protect the vitality and viability of nearby centres.

4. The development hereby approved shall be undertaken in accordance with the submitted surface water drainage scheme based on the principles set out in the Drainage Strategy which accompanies the development.

Reason: To ensure a satisfactory means of draining the site.

5. Prior to the commencement of any works which may affect Great Crested Newts and/or their habitat, a copy of the relevant issued District Level License shall be submitted to the Local Planning Authority. All works shall then proceed in accordance with the requirements of the signed and issued Natural England licence.

Reason: To ensure that the protected species is adequately mitigated for as a result of the development.

6. The landscaping details shown on the approved plans shall be implemented in full in the first planting season following the first use of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with the approved scheme and timetable; and any plants which throughout the lifetime of the development from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the visual amenity of the area in which the site is situated and to enhance biodiversity gain.

7. Notwithstanding the details shown on the approved plans, prior to the store opening EV recharge points for electric vehicles shall be provided within the development at four parking spaces as well as cable routes for a further 23 electric vehicle charge points. Also, prior to the store opening, a timetable for the provision of a further 10 recharge points for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority. Charging points shall be supplied by an independent 32-amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing by the Local Planning Authority. Once provided the electric vehicle charging points shall be retained throughout the lifetime of the approved development.

Reason: In the interests of achieving sustainable development and reduce air pollution at the site.

8. Prior to the first use of the development hereby approved the secure cycle parking facility shown on the approved plans shall be provided and thereafter maintained in good repair thereafter for the lifetime of the development.

Reason: In the interests of promoting sustainable transport measures.

9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order), the development shall not be brought into use until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the development is first brought into use or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

10. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or

replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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.

11. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: To protect the amenities of nearby residents.

12. Notwithstanding the submitted details, prior to the installation of any external lighting a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The details shall be designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines. The submitted details shall include precise details of the position, appearance, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting and be designed to ensure that light intrusion into nearby residential windows shall not exceed 5 Ev (lux) measured as vertical luminance. Any floodlighting shall be designed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 2.5%. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: To protect the amenity of nearby residents.

13. The rating level of sound emitted from any fixed external plant associated with the development shall not exceed 35dBA when measured at the façade of any of the surrounding noise sensitive properties between the hours of 0700-2300 (taken as a 15-minute LAeq) and shall not exceed 25dBA when measured at the façade of any of the surrounding noise sensitive properties between the hours of 23:00 – 07:00. All measurements shall be made in accordance with the methodology of BS4142:

2014 - Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible or it is impractical to get an accurate measurement at the nearest sound sensitive property, measurements shall be undertaken at an appropriate location and corrected or calculated to establish the noise exposure levels at the nearest sound sensitive property.

Reason: To protect the amenity of the occupiers of nearby properties.

14. The store hereby permitted shall not be open to the public outside the following times: 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays; and no deliveries or collections shall be taken at or despatched from the site outside the following times: 07:00 - 22.00 Monday to Saturday and 09.00 - 17.00 Sundays and Bank Holidays.

Reason: To protect the amenity of nearby residents.

15. Prior to the store hereby approved being first brought into use, details of a system of external Closed Circuit Television (CCTV) for formal monitoring of vehicle and pedestrian movement routes, car parking areas, the store building envelope as well as the cycle store

shall be submitted to and approved in writing. The details approved by this condition shall be provided prior to the store hereby approved being first brought into use and maintained as approved throughout the lifetime of the development.

Reason: To reduce the incidence of crime and disorder.

16. Prior to the store hereby approved being first brought into use, details of a Delivery Management Plan which sets out measures to minimise noise generated from deliveries to the site, including a mechanism for the monitoring and recording of compliance with the Plan, shall be submitted to and approved in writing by the Local Planning Authority. The measures contained within the Plan shall be adhered to throughout the lifetime of the development.

Reason: To protect the amenity of nearby residents.

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

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

17. Prior to the occupation/operation of the new building hereby approved details of a local labour agreement in relation to the operational/end use of the development shall be submitted to and approved in writing by the Local Planning Authority. The local labour agreement shall be implemented in accordance with the approved details thereafter.

Reason: To ensure that the operation of the site employs wherever possible local people and assists economic growth in the area.

18. Before any other operations are commenced, a temporary access shall be formed from Drift Road into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

19. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site and maintained in use throughout the period of development.

Reason: In the interests of highway safety.

20. Prior to the premises first being taken into use, the existing accesses into the site shall be permanently closed and reinstated as 2m wide footways, laid out and constructed in accordance with Derbyshire County Council's standards for adoptable highways.

Reason: To ensure that the development does not compromise the future adoption of the road and in the interests of highway safety

21. Prior to the premises first being taken into use, the access into the site shall be laid out and constructed in a solid bound material in accordance with the approved plans, provided with a 10m radius on the western side, a 6m radius on the eastern side and visibility sightlines of 2.4m x 33m, the area forward of which shall be cleared and maintained throughout the lifetime of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety

22. The gradient of the access shall not exceed 1 in 20 for the first 10m into the site from the highway boundary.

Reason: In the interests of highway safety

23. Prior to the first use of the development hereby approved the parking and manoeuvring space shown on the approved plans shall be laid out and maintained throughout the life of the development free of any impediment to its designated use.

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

24. The development hereby permitted shall not be brought into use until a revised Travel Plan comprising immediate, continuing, and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored, and reviewed in accordance with the agreed travel Plan Targets to the satisfaction of the Local Planning Authority.

Reason: In order to deliver sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

#### Informatives

a. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

b. The applicant is advised to contact the Council's Environmental Health Section on all matters relating to food hygiene and health and safety, and that food businesses must register with the local authority at least 28 days prior to opening for business.

c. The applicant will be aware that Drift Road is unadopted and the subject of an Agreement under Section 38 of the Highways Act 1980. Whilst included in the red outline of the application site, all works within the highway should be carried out with the permission of the landowner and approval of Derbyshire County Council, as Highway Authority. For the avoidance of doubt, the Section 38 Agreement will need to be amended to reflect the changes. Contact Place Department, County Hall Matlock email: [development.implementation@derbyshire.gov.uk](mailto:development.implementation@derbyshire.gov.uk) or call 01629 533190.

**Item No.** 1.7

**Ref. No.** [DMPA/2022/0883](#)

**Valid date:** 21/06/2022

**Applicant:** Ian Earl

**Agent:** TUK Architecture

**Proposal:** Temporary use of land for glamping and overnight tourist accommodation at Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN

**Ward:** Melbourne

### **Reason for committee determination**

Cllr Martin Fitzpatrick, Ward Member for Melbourne, has requested that the application is determined by the Planning Committee due to local concerns and the special circumstances of the application which need to be considered.

### **Site Description**

The application refers to two areas of land within the Melbourne Hall estate. Melbourne Hall is a Grade II\* Listed country house set within a Grade I Listed Historic Park and Gardens. A number of other Listed buildings, structures and monuments are also located within the estate.

Site 1 is located on the eastern banks of Melbourne Pool and is accessed from Pool Lane, the private road running through the estate to the west of the main Hall and Gardens. This site lies within the boundary of the Registered Park and Gardens. Pool Cottage, also a Grade II Listed Building, lies immediately to the north of this site and provides a Residential Care Home. To the south lies a further Grade II Listed structure which houses the overflow system for Melbourne Pool.

Site 2 is also accessed from Pool Lane but lies to the south and just outside the boundary of the Registered Park and Gardens. It is located adjacent to two properties also owned by the estate, 1 & 2 Pool Lane.

Melbourne Hall Park and Gardens lie within the designated Conservation Area for Melbourne, although the southern edge of the Conservation Area boundary runs along Pool Lane and Site 2 is therefore just outside the boundary. Part of the area of Site 1 also lies within Flood Zones 2 and 3.

### **The proposal**

A temporary planning permission is sought for the use of the two areas of land as a bespoke glamping site providing overnight tourist accommodation. The permission will run over the month of September 2022. The proposal is also connected with a television docuseries which will film on the site during the month.

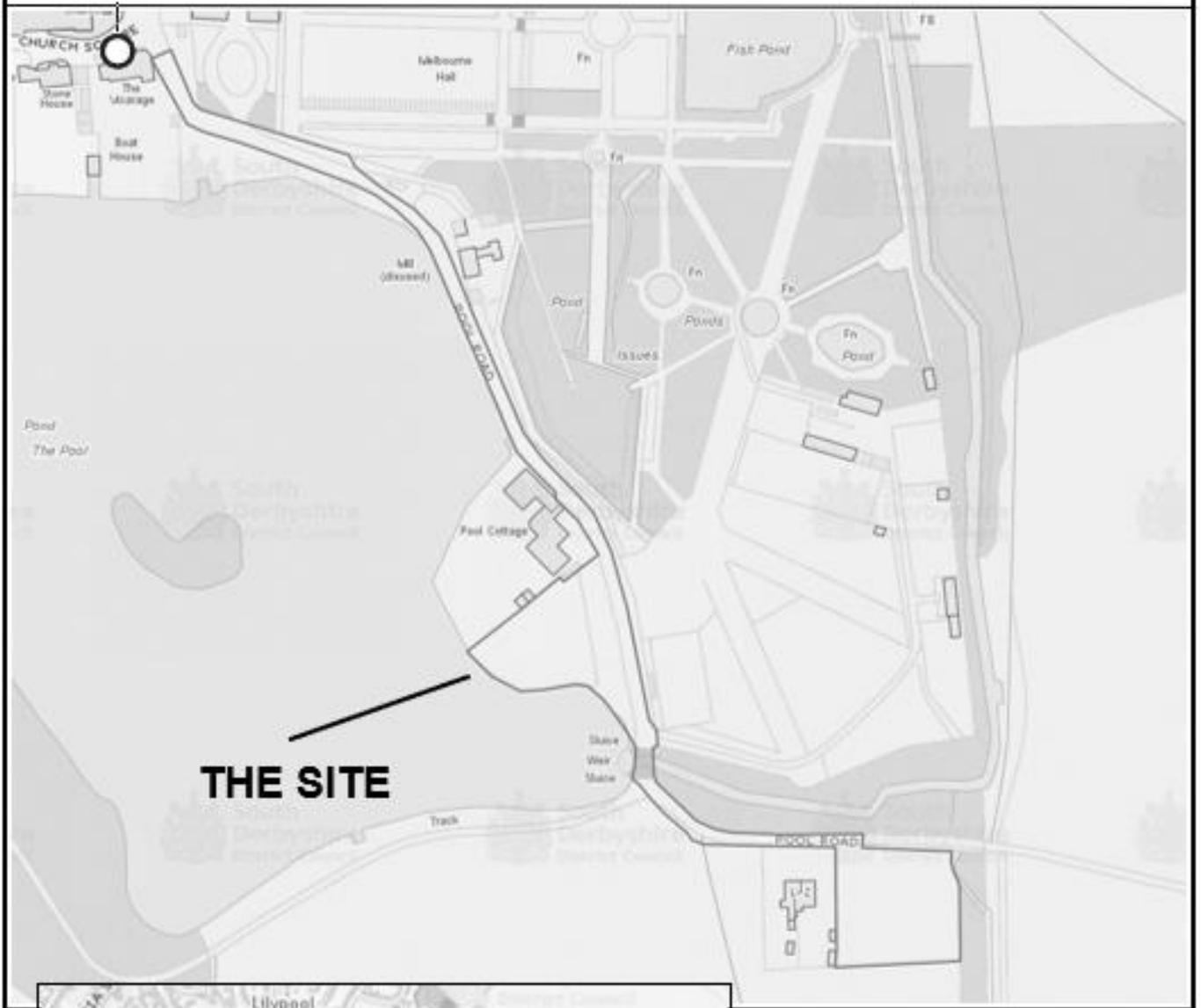
No operational development is proposed under this application.

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

The application is supported with the following plans and documents:

- Location Plan and Site Plan

**DMPA/2022/0883 – Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN**



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South Derbyshire District Council

South Derbyshire District Council. LA 100019461.2020

- Planning and Heritage Statement
- A supporting letter from Plum Pictures outlining the longterm aspirations for the site.

### **Relevant planning history**

There is no planning history on the specific areas of the Melbourne Hall estate to which this application refers.

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

Historic England – No objection.

Although one of the proposed sites is in a key location in the park adjacent to the Great Pool, the temporary change of use proposed is unlikely to result in harm to heritage significance, particularly as the proposed locations have been chosen to utilise existing routeways. We recommend that care should be taken to protect historic structures, features, trees and planting during set up and removal of the vehicles and other equipment, and the site should be reinstated to its current condition at the end of the permission.

It is considered that the application meets the requirements of the NPPF, in particular paragraph numbers 194, 197 and 199.

SDDC Conservation Officer - No objection.

The land to the east of the Registered Park & Garden is elevated, therefore there may be some short-term visual impact arising from Site 1, which will be quite prominent from the Registered Park and Garden. However, the use is temporary, and thus no long-term impact upon the setting of the Listed Building, nor the Registered Park & Gardens. No objection to the principle of the use of the land.

Melbourne Civic Society - No objection to temporary usage of these sites as per this application.

However there would be concerns if this became permanent due to extra traffic on Pool Road and effects on the setting of the Grade 1 listed building, nearby listed buildings/monuments and the Conservation Area (amongst other issues).

County Highways Authority – No objection.

On the basis of the information provided, it would be difficult to suggest that the proposal would result in an increase in traffic generated by the site such that highway safety would be compromised.

County Council as Lead Local Flood Authority – No objections in principle.

As this is a minor application that involves no permanent structures the Lead Local Flood Authority (LLFA) has no formal comment to make.

Informal Comments: While the LLFA recognises that the proposed development is temporary (approximate 28-30 day limit) and will be removed upon completion, both areas proposed for glamping are in areas with some flood risk. Area 1 (northern) is partially within flood zones 2 and 3 while Area 2 is adjacent to Blackwell Brook. In light of this the applicant is encouraged to:

- Minimise the equipment installed in areas with higher flood risk,
- Minimise vulnerability to flooding by incorporating flood resilience in the equipment used and installation techniques,
- Development procedures should ensure the safety of occupants and support staff in the

event of a flooding event.

Environmental Health – No objection to the proposals in principle.

Responses to publicity.

No public representations have been received.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets) and INF10 (Tourism Development).

2017 Local Plan Part 2 (LP2): BNE10 (Heritage).

Melbourne Neighbourhood Development Plan: Policy HC1 - Preservation of the Historical and Cultural Heritage Assets and the existing Conservation Areas.

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Relevant Legislation:

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Planning considerations**

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

- Principle of development;
- Impact of the proposals on the historical significance and setting of the Grade I Listed Melbourne Hall Park and Gardens;
- Impact of the proposals on residential amenity;
- Highways Impacts; and
- Flood Risk Matters.

### **Planning assessment**

Principle of development

Melbourne Hall and Gardens lie within the settlement of Melbourne, a key service village within the District. Policy S1 promotes sustainable growth and supports development which encourages the provision of tourism and leisure facilities which will contribute to the local economy. Policy INF10 specifically encourages the development of tourism and visitor attraction facilities within the key service villages.

This application is concerned with a specific event which is to take part at Melbourne Hall this September. As detailed in the Planning & Heritage Statement the event will be a 'pop up' glamping site which will also be used in the filming of a Channel 4 docuseries. As well as

contributing to the revenue of the Hall and Gardens, which allows the ongoing care and maintenance of the historic assets, the event would also be expected to enhance the profile of Melbourne, attracting new visitors with a resulting benefit to the wider local economy. These are key strategic objectives under both the Local Plan and the Melbourne Neighbourhood Plan.

It is noted that the supporting information with the application advises that, if successful, the glamping provision may be extended. This would potentially be the subject of a further planning application, however, the Council has been advised that a 1 year glamping/camping certificate has been issued for 2023 by Wanderlust Camping Club, which are an authorised body which can 'certificate' campsites without the need for planning permission.

The proposed change of use of the two specified sites is therefore considered acceptable in principle, subject to compliance with the other relevant local and neighbourhood plan policies, which is discussed further below.

#### Impact of the proposals on the historical significance and setting of the Grade I Melbourne Hall Park and Gardens.

Policy BNE2 of the Local Plan states that development is expected to protect, conserve and enhance the District's heritage assets in accordance with national guidance. This is supported under Policy HC1 of the Melbourne Neighbourhood Development Plan, which supports proposals associated with the preservation of the historical and cultural heritage assets and the existing Conservation Areas of Melbourne.

As set out above, the change of use refers to two separate sites and will be for a temporary period of 30 days over the month of September. The glamping sites themselves will be very bespoke and will consist of eight vintage vehicles which have all been converted to provide glamping accommodation. Further details of the vehicles are within the Planning and Heritage Statement. As well as the vehicles, some shower & W.C. facilities will also be brought onto each site and all the vehicles will be located around a fire pit and seating area.

There is to be no permanent development and therefore, at the end of the 30 day period, the glamping facilities will be removed from the sites and they shall be fully restored to their current appearance of open grass land areas. The shower and toilet facilities are all to be fully portable and no services or drainage facilities will be installed. It is therefore considered that the proposed temporary use of the land should not have any longterm impact on the setting and significance of the surrounding heritage assets.

Both sites will be visible from the public realm as Pool Lane is a designated Public Right of Way which runs past both sites. As noted by the Conservation Officer, Site 1 is the more prominently located of the two sites and may also be visible from long range views from the main Gardens. However, there is a high boundary wall along Pool Lane and Site 1 is generally well screened by hedgerows and trees around the boundaries. It is not considered that the temporary use would have a harmful impact on the historic setting of the Gardens. Site 2 should be generally less conspicuous and is screened from the Gardens by a dense tree belt.

It is considered that any temporary negative impact to the heritage assets which may be perceived would be significantly outweighed by the potential benefits to Melbourne Hall. The revenue generated will contribute to the protection and conservation of the Hall and Gardens. Taking a wider perspective, the proposals are therefore considered to accord with the aims of Local Plan policy BNE2 to protect, conserve and enhance South Derbyshire's Heritage Assets and policy HC1 of the Neighbourhood Plan.

The Council also has duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving Listed structures, their settings, or any features of special architectural or historic interest which they possess and to pay special attention to the preservation and enhancement of the surrounding Conservation Area. For the reasons detailed above, it is also considered that the proposal is consistent with the aims and requirements of the primary legislation.

#### Impact of the proposals on residential amenity

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

Both the proposed glamping sites are located next to residential accommodation, although the properties are part of the Melbourne Hall Estate. Site 1 lies adjacent to the Pool Cottage Residential Care Home. The hedgerows and vegetation around the boundary generally screen the grounds of the care home but this is to be reinforced by a small section of temporary heras fencing with green camouflage covering, which will provide some additional privacy for the Care Home gardens. The Agent has advised that there have been full discussions with the Manager of the Care Home and no concerns have been raised during the consultation on the application.

In relation to site 2, the pair of semi-detached properties on the western side are owned by the estate and rented. However, the property closest to the glamping site is due to become vacant and it is intended that it will be used as a residence for the glamping site Manager during September. This should mean that there will be an easy point of contact for any local residents and any excessive noise or anti-social behaviour should be quickly addressed. The nature of the vehicles themselves also means that the sites will be carefully managed.

It is therefore considered that temporary use of the site can be managed to prevent any undue impacts on the amenity of existing neighbouring occupiers and the proposal accords with policies BNE1 and SD1 in this respect.

#### Highways Impacts

The plans indicate parking areas within both sites for the occupiers of the glamping units and it has been advised that the number of vehicles visiting the site which are related to the film crew will be very low in number and easily accommodated within the grounds of Melbourne Hall. On this basis the Highways Officer has confirmed that there are no objections to the proposal.

Although a private road it is noted that Pool Lane is also designated as Public Right of Way and therefore access should be maintained for the public at all times. An informative is added to any permission in respect of this.

The proposal is therefore considered to accord with the aims of policy INF2 of the Local Plan. The proposal should have no undue detrimental impact on highway safety.

#### Flood Risk Matters

The southern half of Site 1 lies within Flood Zone 3 and, as noted in the Lead Local Flood Authority's response, Site 2 is adjacent to Blackwell Brook, although located in Flood Zone 1.

As there would be no new hard surfacing or permanent development associated with the

change of use the proposal should not exacerbate any flood risk elsewhere and as the use of the site is for only 30 days it is not considered necessary to request details of any formal flood risk management plan for prior approval. However, an informative relating to the general flood risk on the site is added to advise that this should be taken into account in the overall management for the sites and alternative arrangements considered in the unfortunate event that there is bad weather during September.

It is therefore considered that the proposal accords with the aims of Policy SD2, which states that development should not increase flood risk to other properties or surrounding areas.

### Conclusion

Approval is recommended for the temporary use of the two sites to provide glamping accommodation over the month of September. It is not considered that there the proposal would result in any undue harm to the setting and significance of the Grade I Listed Registered Park and Gardens and the publicity and revenue arising from the event would contribute to the ongoing conservation of the heritage assets and the local economy of Melbourne.

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

### **Recommendation**

**Approve** subject to the following conditions:

1. The development hereby approved is granted for a limited period only, expiring on 30 September 2022 when, on or before this date, the use shall cease and any related facilities or equipment shall be removed from the site and the land restored to its former condition.

Reason: The permission is granted for a limited period only in the recognition of the particular circumstances of the proposal concerned.

2. The development hereby permitted shall be carried out in accordance with the Site and Location Plan, drawing number 2206-MH34-GS01; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

### Informatives:

- f. The application site is affected by a Public Right of Way (Footpath 21 in the parish of Melbourne as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. For further information email ETC.PROW@derbyshire.gov.uk or telephone 01629 533190.

- g. Both sites proposed for glamping facilities are in areas with some flood risk. Area 1 (northern) is partially within flood zones 2 and 3 while Area 2 is adjacent to Blackwell Brook. In light of this the applicant is encouraged to:
- Minimise the equipment installed in areas with higher flood risk,
  - Minimise vulnerability to flooding by incorporating flood resilience in the equipment used and installation techniques,
  - Provide a flood evacuation plan to ensure the safety of occupants and support staff in the event of a flooding event. The plan should outline :
    - The flood warning procedure
    - A safe point of extraction
    - How users can safely evacuate the site upon receipt of a flood warning
    - The areas of responsibility for those participating in the plan
    - The procedures for implementing the plan
    - How users will be made aware of flood risk
    - How users will be made aware of flood resilience
    - Who will be responsible for the update of the flood evacuation plan.

**Item No.** 1.8

**Ref. No.** [DMPA/2022/0360](#)

**Valid date:** 10/03/2022

**Applicant:** V Kotecha

**Agent:** JVH Town Planning Consultants Ltd

**Proposal:** Proposed change of use to existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, inc. 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping on Land adjacent to First Fence Ltd , Kiln Way / Woodhouse Street, Woodville, Swadlincote, DE11 8EA

**Ward:** Woodville

### **Reason for committee determination**

#### **Reason for committee**

The item is presented to the Committee for the following reasons at the request of Councillor Taylor due to local concern.

#### **Site Description**

The site is 2225m<sup>2</sup> of land and is located immediately east of the recently created roundabout junction between Swadlincote Road (A514) and Kiln Way. The land ownership shows that Derbyshire County Council is an interested party in the site.

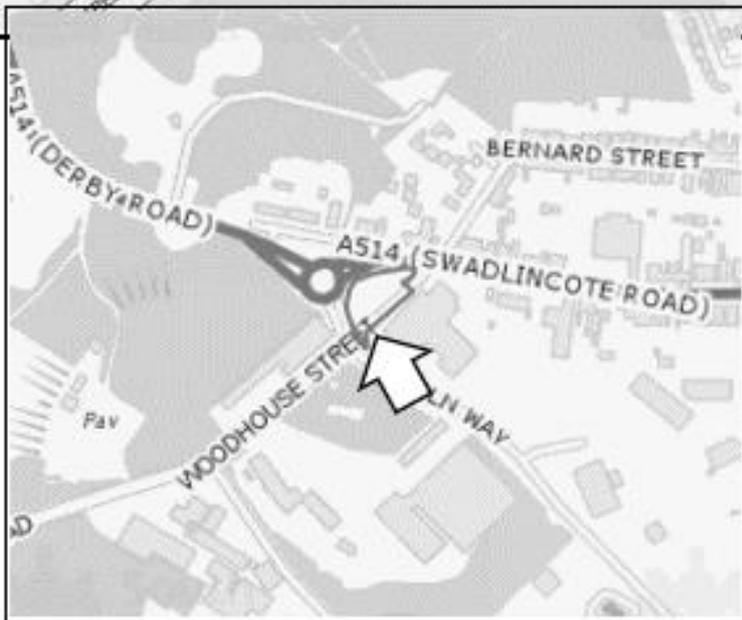
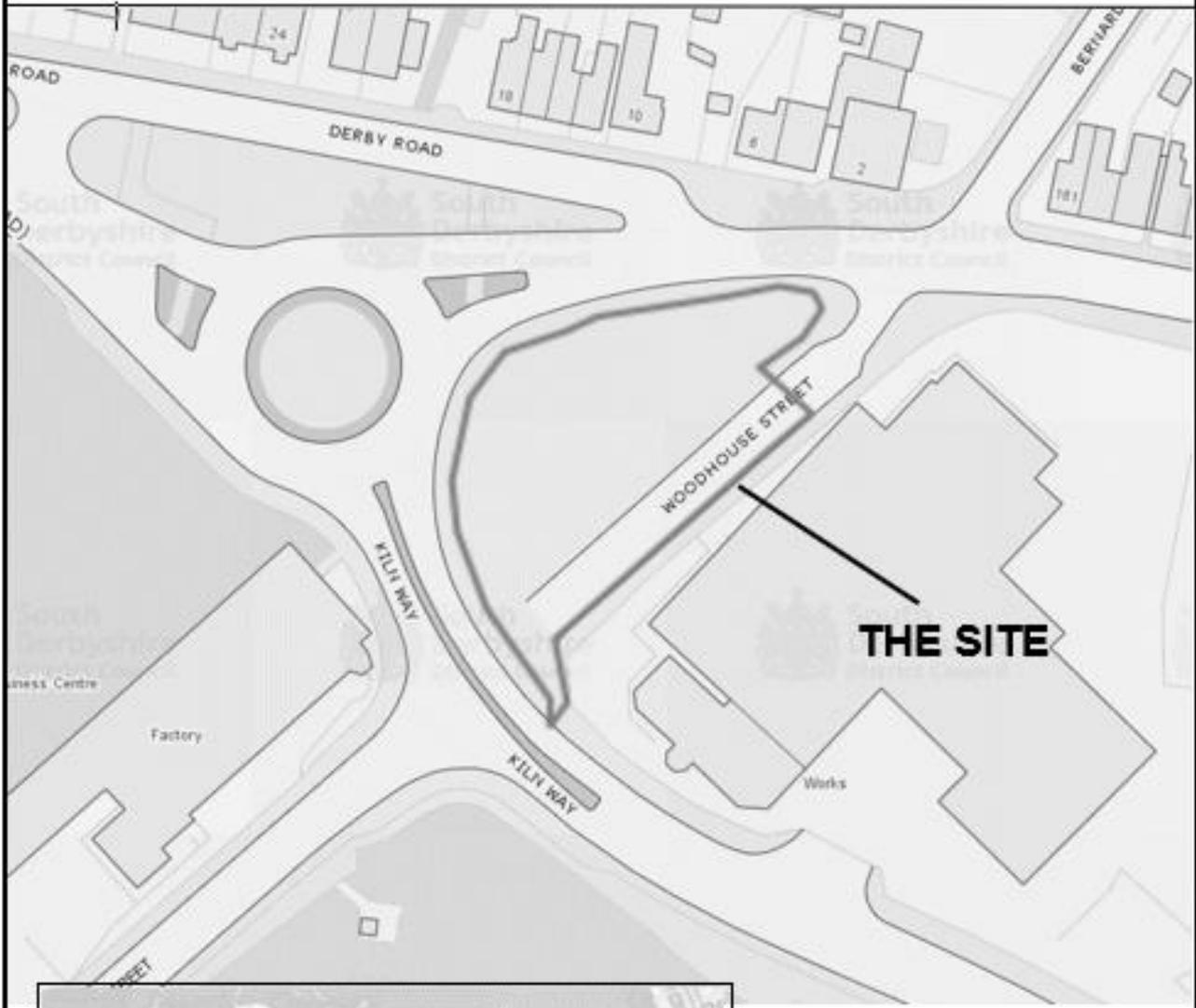
The site comprises of open landscaping and a turning head created from Woodhouse Street which was stopped up at this location during the highway works which remodelled the surrounding roads. The open landscaping was undertaken as part of the landscaping to the junction. On site there are 6 established trees planted as part of the landscaping.

The site is surrounded to the north, west and south by remodelled Swadlincote Road, roundabout and Kiln Way. To the east is a large industrial unit and yard occupied by a number of businesses, but primarily First Fence Ltd. who are the applicants.

Surrounding development to the south is predominantly industrial units occupied by a range of businesses. To the north and east beyond First Fence Ltd. premises is residential ribbon development focussed along Swadlincote Road, in predominantly modest terraced 2 storey style, however there are a number of commercial premises along Swadlincote Road given it's a high traffic route. To the west there is an expanse of woodland of established trees.

The site is located within Woodville within Swadlincote settlement boundary. Swadlincote is an 'Urban Area' in the Local Plan Settlement Hierarchy. The application is within Woodville Parish.

**DMPA/2022/0360 – Land adjacent to First Fence Ltd, Kiln Way / Woodhouse Street, Woodville, Swadlincote, DE11 8EA**



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South Derbyshire District Council, LA 100019461.2020

The site is located within the National Forest with Kiln Way being a Regeneration Route. There are no heritage assets on site or within the vicinity of the site. The site is within Flood Risk Zone 1 and is noted as being within an area subject to Low Risk of Surface Water flooding. The site is within a Coal Authority 'High Risk Coalfield Area'. There are no tree preservation orders on the site.

Given the sites orientation and existing access to the turning head, the site would be accessed from Swadlincote Road.

### **The Proposal**

The proposal is to change the use of the turning head to vehicular and cycle parking, whilst retaining the landscaping in support of First Fence Ltd. Such parking is identified as being needed to support the business and does not include HGV parking.

There would be the following provided:

- 47 car parking spaces
- Of which 24 are EV charging spaces
- Of which 44 are for First Fence Ltd. and 3 for other adjacent businesses
- Dedicated secure cycle storage for 10 cycles
- Retention of 11 established trees on site
- Provision of a further 17 trees on site
- Increase the existing hedging from 42m<sup>2</sup> to 157m<sup>2</sup> on site – a gain of 115.2m
- Reduction of impermeable area by 365m<sup>2</sup> through soft landscaping and permeable landscaping
- Bird boxes / nesting facilities

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

Application Form

Land Ownership – Certificate B

Location Plan

Existing Plans and Elevations

Proposed Plans and Elevations

Supporting Planning Statement

EV Charging Specification

Drainage Plan

Existing Tree and Landscaping Coverage

Proposed Tree and Landscaping Coverage

### **Relevant planning history**

The online planning history available for the site is as follows:

9/2017/1222 Construction of a single carriageway road with verges, cycleways and footways along with three new roundabouts and associated infrastructure and the partial demolition of woodhouse business centre (Woodville regeneration route phase 2) affecting Derby Road, Swadlincote Road, Woodhouse Street and Kiln Way and across land at the former Dyson site occupation lane Woodville Swadlincote Derbyshire – Approved 11 April 2018 (completed 2022)

The applicant was Derbyshire County Council. Approved plan Ref: WVL-AEC-XX-XX-DR-CE-00008 shows the site and is annotated in referring to the site as:  
*'Redundant woodhouse street to be used for parking'*

The red line area for this SDDC planning application ref. DMPA/2022/0360 overlaps with the County Council planning permission red line area for the Woodville Link Road. The relevant DCC planning permissions are as follows:

CD9/0520/8 - Section 73 Application for the variation of conditions 3 (Form of Development), 4 (Highways) and 24 (Construction Hours) of planning permission CD9/0519/20 for construction of an all purpose single carriageway complete with verges, cycleways and footpaths (including three roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville and the A514 Derby Road, Swadlincote. Approved 30/07/20

CD9/0519/20 - Construction of an all-purpose single carriageway complete with verges, cycleways and footways (including three new roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville, and the A514 Derby Road, Swadlincote. Approved 23/09/19

A Landscape Masterplan was subsequently submitted in respect of Condition 14 of planning permission ref. CD9/0520/8 which showed the retention of woodland and hedgerow as required by National Forest. Condition 15 of planning permission CD9/0520/8 requires the retention of planting as agreed for five years and this conflicts with the proposals currently under consideration as part of this application.

### **Publication and Consultation**

The application was published initially in April 2022. During this period letters of notification were sent to neighbours and the application was published via a site notice. All comments to the date of writing have been considered.

Environmental Health – No Objection subject to conditions

*The quantum of car parking spaces contained within the application is unlikely to result in increases of traffic movement on the local road network more than the threshold described at table 6.2 of the non-statutory guidance published by the Institute of Air Quality Management (IAQM) Land-Use Planning & Development Control: Planning For Air Quality. A detailed air quality assessment is not therefore required to support the application.*

*I also note that the application has committed to the provision of 24 electric car recharge points. This is consistent with the most appropriate air quality mitigation measures that we could expect.*

DCC Rights of Way – No objection

National Forest Company – Comments

*The application site forms an area of land approved as an area of landscaping in connection with the link road. The landscaping proposed for the link road, including the current application site, was intended to mitigate the visual impact of the link road and create National Forest character.*

*The NFC are therefore extremely concerned about the loss of this area of landscaping, and its replacement primarily with car parking.*

Lead Local Flood Authority – No objection

County Highways - No Objection subject to conditions and informatives.

*The applicant proposes to change the use of part of the existing highway (Woodhouse Street) and incorporate it and adjacent land into their curtilage to provide additional on-site parking for the premises. The change of use will involve the formal Stopping Up of part of Woodhouse Street under Section 247 of the Town & County Planning Act 1990 which will need to take place before any other works commence.*

*It is noted that there is insufficient space within the application site for HGV's to turn and, as such, the proposed use of the land, the subject of the application, should be restricted to light vehicles only.*

*Bearing in mind the above comments, there are no objections to the proposal from the highway point of view subject to the following conditions being included in any consent in the interests of highway safety.*

Highways England – No objection

Derbyshire Wildlife Trust (DWT) – Comments / No objection

*On the basis of the submitted information, we advise that there are unlikely to be any substantive ecological impacts associated with the proposed development.*

*To avoid harm to nesting birds, any tree removal should be timed to take place outside the main bird breeding season. The proposed hedge and tree planting is welcomed.*

Landscape Architect – Comments / No objection subject to conditions

*Annotate the trees to the east of the main entrance*

*A 5 year Landscape and Ecology Management Plan*

*Enhancement of biodiversity*

*Use of native species with consideration to improving local biodiversity including hedgehogs, birds, bats, and bees etc.*

Derbyshire County Council – Comments / No objection subject to conditions

*Acceptable in principle subject to landscaping conditions reflecting C14 & 15 attached to the Woodville Link Road.*

Woodville Parish Council – Comments summarised as follows:

- Members comments are mixed, some support but also some concerns expressed.
- Confirmation of ownership requested.

\*Officer note – this was clarified to the PC Clerk directly and no further comments were provided.

There were 3 objections received from members of the public raising the following matters:

- a) Does not reflect the regeneration of Swadlincote from its industrial past
- b) Delivery of link road resulted in loss of trees
- c) Public told by Cllrs that the previous landscaping would be retained / woodhouse lane would be landscaped with additional planting
- d) Waste of taxpayers money
- e) How will the public right of way be managed along the previous woodhouse street
- f) Why is there a need for a Fence 1.2 M high? The factory is already fenced.
- g) What colour would the fence be I believe the existing factory fence should have been green?
- h) Will works traffic be allowed on for example fork trucks & lorries especially HGV's?
- i) Will the factory be allowed to extend out or create new access points in or out of the factory?
- j) No fencing should be proposed as this is a 'gateway'
- k) Parking for industrial units was not raised during the discussions around the link road – is the industrial unit seeking to expand
- l) Will the parking be used for HGVs?
- m) Concern over the loss of parking for residents if this site is made into parking ONLY for First Fence employees.

Councillor Taylor raised an objection to the application on the following grounds:

- a) Raised the importance of gateway sites – this junction is a key gateway site  
Regeneration of Swadlincote has significantly improved the impression and perspective of the area for the community, visitors and investors.
- b) Significant importance was given to landscaping in the link road scheme; that is particularly evident at the newly created traffic island at the Swadlincote end.
- c) Application goes some way to completely destroying what has been achieved.
- d) Officers should consider the wider implications on the impression given on our ambitions for the improvement of Swadlincote.
- e) Disappointed with Derbyshire County Council if they intend to dispose of the land

### **Development Plan**

The relevant Development Plan policies are:

2016 South Derbyshire Local Plan Part 1 (LP1): H1 Settlement Boundary; SD1 Amenity and Environmental Quality; E2 Other Industrial and Business Development; E6 Woodville Regeneration Areas; BNE1 Design Excellence BNE 3 Biodiversity and BNE 4 Landscape Character and Local Distinctiveness INF4 Transport Infrastructure Improvement Scheme; INF7 Green Infrastructure; INF 8 The National Forest

2017 South Derbyshire Local Plan Part 2 (LP2):

BNE 7 Trees, Woodland and Hedgerows, BNE9 Advertisements and Visual Pollution

The relevant local guidance is:

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

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)

- Planning Practice Guidance (NPPG)

### **Planning Considerations**

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

- Principle of development;
- Access and Highways;
- Design, Landscape Character and Visual Impacts;
- Ecology; and
- Other Matters

### **Principle of development**

The National Planning Policy Framework (NPPF) seeks to support the growth and expansion of local businesses and places significant weight on the need to support economic growth. The site is within the Woodville Regeneration Area which is allocated in the South Derbyshire District Local Plan Part 1 (SDDL1) for employment led development. The Woodville Regeneration Area is a priority area for regeneration, supported by the link road. Policy E6: Woodville Regeneration Area seeks that redevelopment of this area should incorporate 12 hectares (ha) of employment development defined by use classes B1, B2 and B8.

Policy S1: Sustainable Growth Strategy of the LP1 seeks to promote sustainable growth to meet its objectively assessed commercial needs in the plan period 2011- 2028. Point i) of this policy presumes in favour of the re-use of previously developed land.

Policy E2: Other Industrial and Business Development of the LP1 presumes in favour of the expansion of existing businesses in Part A, part ii) of this policy where there would be no undue impacts on the local landscape or natural environment.

Consultations with Derbyshire County Council resulted in internal consultation with the Project Delivery Manager for the Woodville Link Road. The DCC response confirmed:

*I'm aware of this planning application and can indicate that from my perspective we are supportive of it proceeding. Derbyshire County Council is bound through a withdrawal of objection agreement at the public inquiry to proceed with the stopping up of the highway and agree to dispose of the highway and adjacent public open space. We'd have to deal with the tree aspects through the South Derbyshire District Council consent therefore if we are to live up to the original expectations of the National Forest.*

The turning head element of the site is brownfield land which has arisen from the delivery of the Woodville Link Road, and no consultee has outlined that such would be undermined from the proposal. The turning head is currently in use as informal parking. DCC have confirmed they are bound to stopping up the highway here and agree to dispose of the land, but landscaping and tree coverage is a consideration. The proposal is submitted by an adjacent business who have outlined a proposal that retains a landscaping element and proposes a range of parking to support its operations, and supports a modal shift away from petrol cars.

On this basis, the proposal is considered to reflect the aspirations of the Woodville Regeneration Area, and will support the ongoing operations of an existing employment use in B1/2 use inline with policy E6. The site is brownfield land and therefore is considered inline with policy S1. Policy E2 would also support this application in principle and consideration is given to

Overall for the reasons above the application is acceptable in principle, and inline with the NPPF, with the proposal supporting local economic development.

### **Access and Highways**

LP1 Policies INF2: Sustainable Transport and S6: Sustainable Access seek that developments are within convenient distance to public transport and encourage modal shift away from the private car.

The proposed parking will be accessed by an existing junction. The parking spaces are arranged pragmatically and located up against the industrial unit, allowing for the retention of landscaping to the link road. There will be the provision three parking spaces immediately at the junction which will be allocated for a further adjacent business. The remaining 44 parking bays will be secured behind a gated entrance and railings. The site access will also act as egress and cars will have the ability to exit in a forward gear. There will be a cycle store for 10 cycles and 24 spaces supporting EV charging, with the indicative EV specification submitted.

Derbyshire County Council Planning and also DCC Highways have been consulted on the application and neither raised an objection in terms of highways and access and the former outlined that DCC are bound to stop up the existing turning head. Environmental Health Officer noted no undue air quality impacts likely to arise. All three consultees raised no objection to the EV specification proposed and welcomed both this aspect of the proposal and the cycle parking.

Given the layout, size and existing junction arrangement the conditions requested by DCC Highways are considered to be reasonable and form part of the recommendation. The EV specification would form a condition on any planning permission. By virtue of the approved drawings the delivery of the cycle storage and EV parking will be controlled. In response to a number of consultation comments, the conditions will restrict HGV use.

Overall the application is considered to be acceptable in terms of its impact on Highways and is in compliance with Policies INF2 and S6.

### **Design, Landscape Character and Visual Impacts;**

The application site provides in part landscaping and subsequently visual mitigation in response to the Woodville Link Road. These matters are controlled by attached conditions to the operative consent as set out above. They were requested by the National Forest Company.

Paragraph 174 of NPPF Chapter 15: Conserving and Enhancing the Natural Environment seeks that planning policies and decisions should contribute to and enhance the natural and local environment. Point a) of this paragraph is specifically concerned with protecting and enhancing valued landscapes.

Point e) of Policy BNE1: Design Excellence seeks that new development should create places with a locally inspired character that responds to its context and has regard to valued landscape characteristics. Policy BNE4: Landscape

Character and Local Distinctiveness expects developers to retain key valued landscape components unless it can be demonstrated that the loss of features would not give rise to an unacceptable impact on landscape character.

The policy presumes against development that would have an unacceptable impact on landscape character, including historic character, visual amenity and sensitivity.

Policy BNE7: Trees, Woodland and Hedgerows is relevant where this policy seeks to appropriately mitigate, compensate for or off-set for the loss of trees, woodland or hedgerows. Policy INF8 seeks to support the creation of a national forest across the area and favours tree planting alongside delivery of other natural landscapes, akin to the area.

The proposed development would result in the loss of two existing on site trees, however overall would retain 11 of the established trees on the site, provide a further 17 trees across the site and increase the existing hedging to result in a further 115.2m<sup>2</sup> of hedging. The remaining area is proposed for wildflower and grass mix of native species. From a review of the approved plans and those submitted to address Conditions 14 (which was discharged under County Council submission ref. SD3472 in October 2020) attached to CD9/0520/8 there is a greater degree of landscaping and planting proposed as part of this application. In addition, in terms of layout and visual amenity, the hedge row would be moved out to flank the highway, and alongside the increased tree planting it is considered to assist in helping create a green corridor along the south of Swadlincote Road linking up with the woodland further west. In effect, landscaping of a more substantial and green nature would be delivered and moved closer to the link road. Consequently, the users of Swadlincote Road will appreciate this from further along the highway, improving visual amenity, and enhancing the role of this junction as the gateway noted in consultations.

In addition to this, it would be possible to control the landscaping with a 5 year management condition, the same time period as that which currently controls the landscaping to ensure this benefit remains for a minimum of this period.

The paving is indicatively tarmac and pavers, and railings metal of a 1.2m height to secure the area. It is considered that this is acceptable and whilst concern was raised about the colour of the railings through the consultation, further details of these elements could be controlled by condition. However, on the proposed layout the railings will, for the majority and especially at the more sensitive location of adjacent to the highway, be behind the proposed hedgerow, minimising their visual impact, which is already reduced due their open character and design.

The National Forest Company (NFC) provided initial comments, which in summary stated "*The NFC are therefore extremely concerned about the loss of this area of landscaping, and its replacement primarily with car parking.*" However, from the information provided in support of this application these comments appear to conflict with the existing situation, as approved. The proposal would retain all but two of the existing trees and plant additional in line with INF8 policy and NFC objectives. The NFC have been asked for further clarity on their comments given the above and members will be updated verbally of these at the meeting.

Lastly, it has been noted that there is the presence of a 6m easement around a gas main. On this basis, a final landscaping design would be required and Cadent, the assets owner would need to be consulted further on this. However, the landscaping would need to, as a minimum, provide the identified benefits of planting discussed above and a condition could control that this is satisfied prior to development commencing. It is considered unreasonable to delay the determination on this point as it can be dealt with satisfactorily by condition as per Paragraph 11c of the NPPF.

Overall, the sites function as landscaping and visual mitigation to the Woodville Link Road is maintained, and it is considered enhanced given the additional hedgerow and tree planting, and moving this closer to the highway. The visual mitigation provided by such mitigation will again be managed for a period of 5 years reflecting that of the host permission for the link road. On this basis, it is considered that the proposal would accord with the requirements of the NPPF and LP1 Policies BNE1, BNE4, INF7 and INF8, and LP2 Policy BNE7.

### **Ecology**

LP1 Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible.

The site is considered to have a relatively low ecological value, however, there is the established trees and proposed hedgerow and planting. These elements will be retained and supplemented with further tree planting and hedgerow planting will be provided. In addition bird and bat boxes will be provided in the trees to support biodiversity.

Derbyshire Wildlife Trust were consulted on the application and advised that there were unlikely to be any substantive ecological impacts associated with the proposed development. They further advised to avoid harm to nesting birds, any tree removal should be timed to take place outside the main bird breeding season and welcomed the proposed hedge and tree planting.

It is considered that, subject to conditions related to managing the removal of the trees, the application is in accordance with policy BNE3.

### **Other Matters**

The impermeable area of the site will be reduced which will improve the infiltration drainage on site. This has been accepted by the LLFA and the details of the landscaping and materials will be conditioned so this can be controlled.

The application form shows that Derbyshire County Council is an interested party in the site. Derbyshire County Council like any other landowner has the ability to manage their estate accordingly. There is no planning reason for the site to remain as is, beyond that of the conditions attached to the link road consent which have been addressed. Indeed, in that context it is considered that the function of the site as a 'gateway' could be improved through the additional landscaping.

### **Conclusion and Planning Balance**

The proposal would deliver 47 parking bays, 24 of which would be capable of EV charging and 10 cycle stores in support of an adjacent business on an existing turning head, alongside retaining and enhancing an area of landscaping in support of the Woodville Link Road, in an area which is designated for regeneration to support employment use. The proposal is considered to be inline with the regeneration objectives by supporting local business and the Woodville Link Road, and represent sustainable use of brownfield land. Inline with the NPPF this is afforded significant weight.

There are no highway issues arising and given the suite of parking proposed supports a modal shift to more sustainable modes.

The additional planting and rearranged layout are considered to improve and enhance the visual amenity offered at this junction, reflect local character in so far as additional tree planting in an area of National Forest and result in ecology benefits. These benefits will be controlled for a minimum period of 5 years reflecting previous conditions on the site.

It is therefore considered that the application is in accordance with the adopted Development Plan and Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990, given there are no material considerations to suggest otherwise the application is recommended for approval subject to conditions.

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

## **Recommendation**

**Approve** subject to 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 ref:

222-30-01

222-30-03

222-30-12d

IA-222-30-21

IA-222-30-22e

BXMWAP\_Apollo2018

EVQRO-V06-R5 Quantum EV Range - Overview Sheet

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

Reason: For the avoidance of doubt and to ensure a high-quality development.

3. Notwithstanding the information submitted, prior to commencement of development a full schedule of all hard and soft landscape and planting works shall be submitted to and approved in writing by the local planning authority, in consultation with the National Forest Company and Cadent Gas. The schedule shall include, but not limited to:
- Details of all existing trees and hedgerows on the site and indicating whether they are to be retained;
  - Planting plans and sub grade details, written specifications (including cultivation and other operations associated with plant and grass establishment),
  - Schedules of plants/trees noting species, plant sizes, maturity, crown size; and,
  - A detailed implementation programme outlining the phasing of the any planting;

If within a period of 5 years from the date of the planting, any tree or plant (including retained hedgerows and trees) is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason: To assimilate the development into its surroundings, protect the character and appearance of the area and to enhance the ecological value of the area.

4. Prior to the commencement of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall cover a period of 40 years and 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, including mitigation and enhancement for species identified on site;
  - 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 twenty-year period);
  - g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation;
  - h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

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

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

5. Prior to the erection of the following elements of the development hereby approved the colour, specification and external facing finishes shall be submitted to and approved in writing by the Local Planning Authority: fencing; gates, any CCTV equipment, cycle storage and EV chargers. These listed elements of the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and landscape character in a rural area.

6. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Reason: In the interests of protecting nesting birds

7. No construction or related activity shall take place on the site outside the following hours: 0800 to 1800 Monday to Friday; 0800 to 1300 on Saturdays; and at no time on Sundays or Bank Holidays with the exception of work needed during an emergency.

Reason: In the interests of residential amenity protection during the construction period of the development.

8. No works shall commence on site until such time as a Stopping Up Order to remove all highway rights subsisting on the section of Woodhouse Street enclosed within the red outline of the application site has been granted and all highway rights have been successfully removed. For the avoidance of doubt, this must take place prior to commencement to comply with statutory requirements.

Reason: In the interests of Highway Safety

9. Prior to being taken into use, the parking and manoeuvring space within the site shall be laid out in accordance with application drawing 222-30-12 rev D and maintained throughout the lifetime of the development free from any impediment to its designated use.

Reason: In the interests of Highway Safety

10. The use of the proposed parking and manoeuvring space within the application site shall be restricted to use by light vehicles in order to prevent the introduction of onerous manoeuvres by HGV's within the busy, classified Swadlincote Road in close proximity to the roundabout due to insufficient space within the site for large vehicles to turn.

Reason: In the interests of Highway Safety

11. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) for the proposed development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors

- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays);
- v) Details of all plant and machinery to be used during preparatory and construction stage, including an inventory of all Non-road Mobile Machinery (NRMM);
- vii) Details of community engagement arrangements and complaints procedure;
- viii) Details of any acoustic hoarding on boundary of site;
- ix) Details of mitigation measures on protected species identified on site;
- x) Details for avoiding vegetation clearance during the bird nesting season;
- xi) A temporary drainage strategy and performance specification to control surface water runoff and Pollution Prevention Plan (in accordance with Environment Agency guidance);
- xii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- xiii) Details of noise, dust and air quality monitoring and compliance arrangements, including provision for monthly attendance at the Parish council meeting; and,
- xiv) Details of measures to remove/prevent re-colonisation of non-native species.

The Proposed Development shall only be carried out in accordance with the approved CEMP.

Reason: To safeguard residential amenity and protect areas of ecology.

12. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.

Reason: In the interests of Highway Safety

13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants

### **Informatives**

- a. Planning permission does not give you approval to work on the public highway. The proposal requires the permanent removal ("stopping up") of highway to enable the development to take place. As such, you must complete the legal processes required before commencing works. Contact the National Transport Casework Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR.
- b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer's responsibility to

ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

If you consider the closing of the existing access onto Swadlincote Road to be reasonable, a condition requiring it to be permanently closed within 28 days of the new access being taken into use and the vehicular crossover being reinstated as footway in accordance with a scheme first submitted to and approved in writing by the local Planning Authority.

The following note will also need to be appended - Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

**Item No.** 1.9

**Ref. No.** [DMPA/2022/0037](#)

**Valid date:** 11/02/2022

**Applicant:** Slade

**Agent:** Making Plans Architecture

**Proposal:** **Conversion & extension of existing garage into new 2 bedroom dwelling and erection of new flat roof garage at 57 Egginton Road, Hilton, Derby, DE65 5FG**

**Ward:** Hilton

### **Reason for committee determination**

The item is presented to the Committee for the following reasons: partial conflict with the adopted Neighbourhood Plan.

### **Site Description**

The site comprises of the existing double garage building and surrounds associated with residential dwelling 57 Egginton Road, DE65 5FG, which is located on a large plot adjacent to the north west of the application site.

The site is surrounded to the north and west by land and ancillary buildings associated with dwellinghouse of 57 Egginton Road; to the east by Willowfields Road; and to the south by public right of way SD25/17/1 which runs from Willowfields to Egginton Road. Beyond the PRoW are dwellinghouses (23 Willowfields immediately south).

Surrounding development is suburban estate style residential housing of 2 storeys, predominantly in a tented roof style with dormers front and rear. The dormers are predominantly fascia plastic, but examples of brick can also be found. The exception to this is 57 Egginton Road which appears to be an older and larger on plan arts and crafts style dwellinghouse.

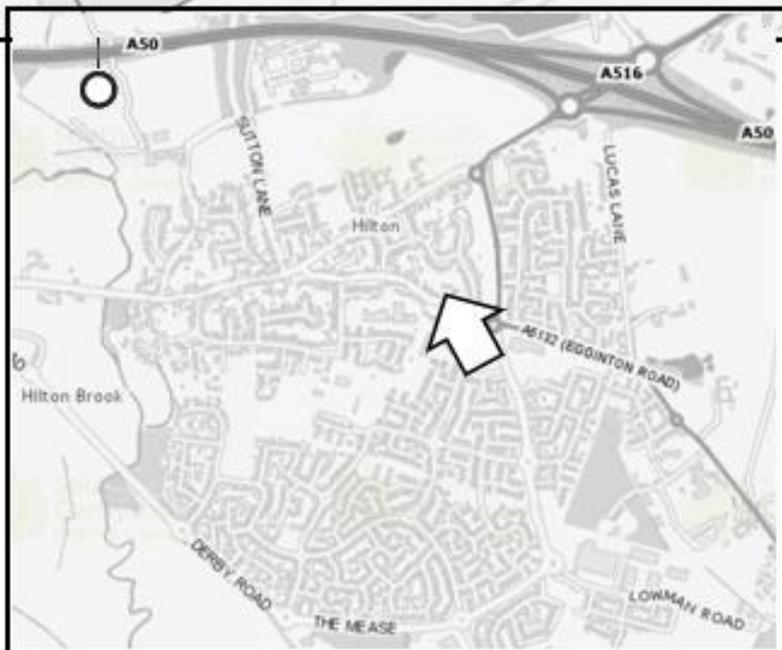
The site is located within Hilton. Hilton is a 'Key Service Village' in the Local Plan Settlement Hierarchy. The application is within Hilton Parish.

Opposite the site is a designated 'area of open space' reference 197 Willowfields, which is also a designated 'peripheral' Nature Site in the Local Plan. At neighbourhood level, this space is a 'local green space'.

There are no heritage assets on site or within the vicinity of the site. The site is within Flood Risk Zone 1 but is noted as being within an area subject to Low Risk of Surface Water flooding. There are no established trees on site and no tree preservation orders. The boundary between the site and Willowfields Road is in part made up of semi mature leylandii/privets.

Given the sites orientation, the site would be accessed from Willowfields Road. For clarity 57 Egginton Road is accessed via a long driveway which runs along the same route as PRoW SD25/17/1.

DMPA/2022/0037 – 57 Egginton Road, Hilton, Derby, DE65 5FG



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South Derbyshire District Council LA 100019461.2020

## **The proposal**

The proposal is to extend and alter the existing garage to comprise a retained garage for 57 Eggington Road, and also a two storey 2bed unit accessed from Willowfields Road.

The style proposed is that of the adjacent properties along Willowfields Road. The dwellinghouse would be supported by a front and rear garden and off-street parking.

## **Applicant's supporting information**

Application Form  
Location Plan  
Existing Plans and Elevations  
Proposed Plans and Elevations  
Block Plan (amended 18th March)  
Confirmation Cattery not implemented re/ Parking/C6

## **Relevant planning history**

9/1999/1015 - The erection of a 1.8 m. high boundary fence and the incorporation into the domestic garden of land fronting Willow Fields and adjoining the detached dwelling known as Well Cottage - Approved May 1999

9/2000/0472 - The erection of a part two storey extension - Approved July 2000

9/2004/0325 - The erection of an extension and alterations - Approved May 2004

9/2013/0647 - The erection of an extension and detached double garage with adjoining hobby room and formation of storage/games rooms within roof space of garage - Approved October 2013

9/2014/0026 - Resubmission of previously approved application 9/2013/0647(the erection of an extension and detached double garage with adjoining hobby room and formation of storage/games rooms within roof space of garage) to include the erection of a building for use as a cattery, repositioning of approved garage and use of hobby rooms within garage as a kitchen area in connection with cattery, the erection of 1.8m fence and the creation of off street parking from willowfields - Approved October 2014

Note - Condition 6 controlled the delivery of a car parking space in support of the Cattery on the same land as the current parking space associated with the new unit proposed, however, this use has never been confirmed as never been implemented.

9/2018/0537 - The erection of a replacement sun lounge extension - Approved July 2018

## **Responses to consultations and publicity**

The application was published initially in February 2022 and then again given amendments in May 2022. During both periods letters of notification were sent to neighbours and the application was published via a site notice.

Environmental Health - No comments.

County Highways - No Objection subject to conditions and informatives.

Hilton Parish Council - expects that all the requirements of the NP policies are applied to this application.

No responses were received from members of the public in response to the consultations undertaken.

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

The relevant Development Plan policies are:

2016 South Derbyshire Local Plan Part 1 (LP1): SD1: Amenity and Environmental Quality; and BNE1 Design Excellence.

2017 South Derbyshire Local Plan Part 2 (LP2): H27 Residential Extension and other Householder Development

Hilton, Marston on Dove and Hoon: Neighbourhood Development Plan (Hilton NP) 2020-2035: N1 Noise Mitigation; A1 Air Quality; H1 Housing Delivery; H2 Housing Mix; H3 Requirements of Housing: Residential Car Parking; H4 Requirements of Housing: Homes designed for energy efficiency; H5 Gardens; and H6 Housing Design

The relevant local guidance is:

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

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (NPPG)

### **Planning considerations**

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

Principle of development;

Design and Neighbour impacts;

Parking and Access; and

Other Matters

### **Planning assessment**

Principle of development

The site is brownfield and located within the settlement boundary of Hilton. Hilton is noted as a Key Service Village in Policy H1, and the policy states development of all sizes within the settlement boundary will be considered appropriate. The Local Plan in Table 3 expects 400 dwellings will be delivered by windfall sites such as this. The proposal does not trigger the requirement for affordable housing as per policy H21, nor a specific mix as per Neighbourhood Plan (NP) policy H2. It is considered that the Hilton NP would also support residential development in principle at this location via policy H1.

Overall, the principle of residential development on site is acceptable, subject to further considerations set out below. The delivery of a housing unit is considered a benefit given the windfall housing demands on Hilton inline with LP H1 and NP H1; and, given that this is a 2bed unit on brownfield site in an area of predominantly 3bed units, it is considered a benefit in so

far as it assists in creating a mixed and balanced community within the settlement, broadly inline with objectives of NP H2.

### Design & Neighbour Impacts

Policy H20 seeks a suitable range and density of housing on sites, with proposals having to make an efficient use of land appropriate for the wider character. Policy BNE1 promotes design excellence in new development, in so far as ensuring visual attractiveness, reflecting local character and protecting neighbouring amenity. NP Policy H4 seeks developments optimise their sustainability.

NP Policy H5 seeks sufficient private amenity space for each dwelling as follows: 70sqm for a 2 bed room dwelling. In considering this aspect of the development it is material to note the site is opposite Willowfields Local Green Space (Site 3) as identified in the NP.

Adjacent development is suburban housing of two storeys, in a tented roof style with dormers front and rear.

The proposal would alter and extend the existing double storey hipped roof garage, with front and extended rear dormers to create a single 2bed unit and build an adjoining c.5m x 6m single storey garage for use by 57 Eggington Road.

The new unit would be visible from Willowfields Road. The proposed architectural design of a 2 storey tented roof with dormers follows that of adjacent units along Willowfields. The materials proposed are as existing on the front facade and use of tile hanging on dormers. The windows and uPVC will be grey which is not considered unacceptable. Again to the rear, there will be the reuse of the existing roof tiles and the dormer would be Eurocell composite cladding in moon dust grey. The walls will be White K render as existing. The materials are set out on plans which can be conditioned. The materials are considered to be that of the vernacular in the area and result in high quality design that reflect character. The proposed internal layout have been confirmed would meet Nationally Described Space Standards (NDSS).

The unit is served by a front and rear garden which total 69.9sqm not including the proposed drive. The side boundary treatments are as existing and the new boundary between the rear of the new unit and 57 Eggington Road will be 2m high block rendered wall in silver pearl render.

The new garage is proposed to be flat roof and rendered to match the proposed unit. Many of the proposed materials are reused and the proposal retains the majority of the existing structure already present. The unit is dual aspect enabling natural ventilation.

No objection has been raised to the proposals by consultees or adjacent neighbours.

Overall, the design is considered to be sympathetic to the existing vernacular using similar materials which retains the overall character of the area. Given the orientation of building and context of adjacent buildings and landscaping no unacceptable impacts to amenity of 57 Eggington Road and 23 Willowfields Road are considered to arise. Even when excluding the drive when rounded to the nearest square metre the private amenity space stipulated in the neighbourhood plan is met. It is also noted that the overall open space within the plot (including the drive) significantly exceeds the NP minimum. Given the fractional deficiency (when not rounded up) of the proposed garden against the NP policy this is accepted. The new garage is less visible than the proposed unit from the streetscene but nevertheless acceptable. The retention of the structure and reuse of materials, as well as being dual aspect is considered to optimise the sustainability of the proposal.

For the reasons above the design of the proposed development is considered acceptable, and inline with H20, BNE1, NP H4 and NP H5

### Parking and Access

NP Policy H3 states that new residential development must provide 2+ spaces for 2 bedroom unit as proposed. The loss of all parking for 57 Eggington Road would be resisted by policy. Wider NP policies related to traffic seek to reduce the degree of traffic and promote active travel. Willowfields Road has no street markings to regulate parking.

Derbyshire County Council highways were consulted on the application and raised no objection stating that on balance x1 parking space was sufficient here, and proposed conditions to ensure parking was retained, prior to occupation and maintained. These would be attached to any permission.

The retained parking for 57 Eggington Road is acceptable.

Considering NP Policy H3 further, the NP sets out a context of the transport issues in the NP area which give rise to the standards. It states (pg22):

‘There has long been an issue with parking in some areas of the recent developments. In the past, little regard was given to how many spaces should be made available and where parking provision should be made. This has resulted in parking being a real problem in those areas with the highest housing density which not only affects the routine service of bin collection, but also represents a safety hazard for the access of emergency vehicles. The ability to convert a garage into another living area may also contribute to the overall problem. A comprehensive parking survey has informed the following policy’.

In addition, the residents’ survey revealed a need for the housing to be environmentally friendly and a desire for ‘family sized gardens’. The resulting policy was overwhelmingly supported by the residents.

Further to this, at page 29 the NP sets out two ongoing issues in Hilton are traffic and speed of vehicles.

The proposed parking for the new unit would not meet the standards set out by the NP. However, it is considered that there is some conflict between the two relevant policies in the plan in so far as it seeks to reduce traffic in the area, whilst seeking to apply rigid minimum parking standards. It is considered that the parking issues which form the basis of the policy requirement are found in areas of newer development, of high density and overall this represents an operational issue for bin and emergency services.

The proposed development is within an area of established development. The NP page 10 shows that the area was delivered between 1955-95. From a site visit, it was considered there was not an obtrusive amount of on street parking on Willowfields Road, despite being uncontrolled (no double yellow lines), to undermine access or cause undue impacts. Lastly, DCC Highways have not raised an objection on access or safety grounds.

On balance, whilst there is conflict with the NP policy which weighs against the application, it is considered that the wider material considerations as set out above would result in the proposed development being acceptable in regard to parking provision proposed.

### Other Matters

Officers note that the site overlaps 9/2014/0026 which approved the use of an ancillary building as a cattery and intended for the land subject to this application to be access and parking for this operation. Such was controlled by condition 6 attached to permission reference 9/2014/0026. The operation of the cattery has been confirmed by the applicant as never commenced and from the site visit this appeared so. Notwithstanding, permission 9/2014/0026 would not be able to be operated given that condition 6 would not be able to be met so there is no risk of such occurring lawfully, if this permission is implemented.

### Conclusion

The proposal would deliver a 2bed residential unit, contributing towards the expected 400 windfall units identified, utilise an existing structure which therefore represents an efficient use of land, delivers sustainability benefits since it limits materials etc. and assists in balancing housing stock in terms of unit sizes in the area. The retention of suitable garage parking for 57 Eggington Road maintains the quality of this unit as part of the housing offer in the area. Given the weight afforded to both housing delivery and efficient use of brownfield land this is given significant weight in this instance.

The design of the unit and garage is considered to reflect the vernacular inline with policy. The proposal does not give rise to impacts on neighbouring amenity. The unit would meet space standards, give rise to good levels of internal amenity and is served by suitable private amenity space.

The proposed parking for the new unit would not meet development plan standards but is considered on balance acceptable by the County Highways Authority. Whilst the proposals are not wholly policy compliant in this regard, it is considered that the proposal will not give rise to the identified issues to which the NP is seeking to remedy and avert and on balance is considered to be acceptable.

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

### **Recommendation**

**Approve** subject to the following conditions:

1. The development 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:
  - J3409-01A Site Location Plan.
  - J3409-02C Existing and Proposed Block Plans.
  - J3409-03A Existing Floor Plans, Elevations and Sections.
  - J3409-04C Proposed Floor Plans, Elevations and Sections.unless as otherwise required by condition attached to this permission or following

approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure a high-quality development.

3. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to the dwelling. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles in accordance with Policy INF2 of the Local Plan Part 1.

4. Before occupation of the development the access and parking areas shown on the approved plan(s) shall be completed and thereafter permanently retained for parking and manoeuvring purposes.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians in accordance with policy INF2 of the Local Plan Part 1

5. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with policy INF2 of the Local Plan Part 1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: In the interests of highways safety and in accordance with policy INF2 of the Local Plan Part 1.

7. Prior to the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to occupation and thereafter maintained in a fully functional state.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety in accordance with policies INF2 and SD2 of the Local Plan Part 1.

#### Informatives:

##### A - Highways

a) Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action 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 developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

b) Planning permission does not give you approval to work on the public [highway.To](#) carry works

associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.

**Item No.** 1.10

**Ref. No.** [DMPA/2022/0412](#)

**Valid date:** 25/04/2022

**Applicant:** Mr and Mrs Lyell

**Agent:** BHB Architects

**Proposal:** **Listed building consent for reinstatement of former blocked-up window opening at ground floor level to the rear (east) elevation and to create bathroom/en-suite and WC facilities at first and second floors at Walton Hall, Main Street, Walton-on-Trent, Swadlincote DE12 8LZ**

**Ward:** Seales

### **Reason for committee determination**

Advice given by Historic England Statutory Consultee is inconsistent with the recommendation of the South Derbyshire Conservation Officer.

### **Site Description**

The site is a Grade II\* Listed Property known as Walton Hall within Walton on Trent Conservation Area. This is a small country house and attached stable ranges and garden wall. Early C18 with early C19 and C20 alterations. The Hall is an important surviving 18th Century building and a significant heritage asset.

### **The proposal**

The proposal is for the reinstatement of the former ground floor window to the south east elevation and internal works to create new bathroom/en suite facilities within the property.

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

The applicant has submitted Plans and a Planning, Design and Access Statement to which sets out the evolution of the site, assesses impacts on heritage assets, and considers the proposals against the relevant policy framework.

### **Relevant planning history**

DMPA/2020/0525 Listed Building Consent to repair, rebuild and re-use of existing outbuilding associated with main house to form plant room - Approved 06/07/2020

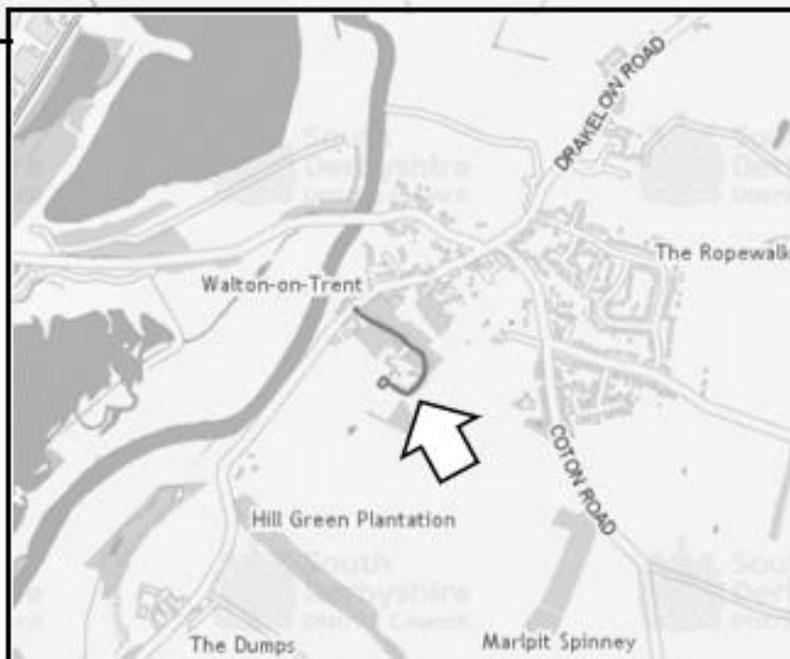
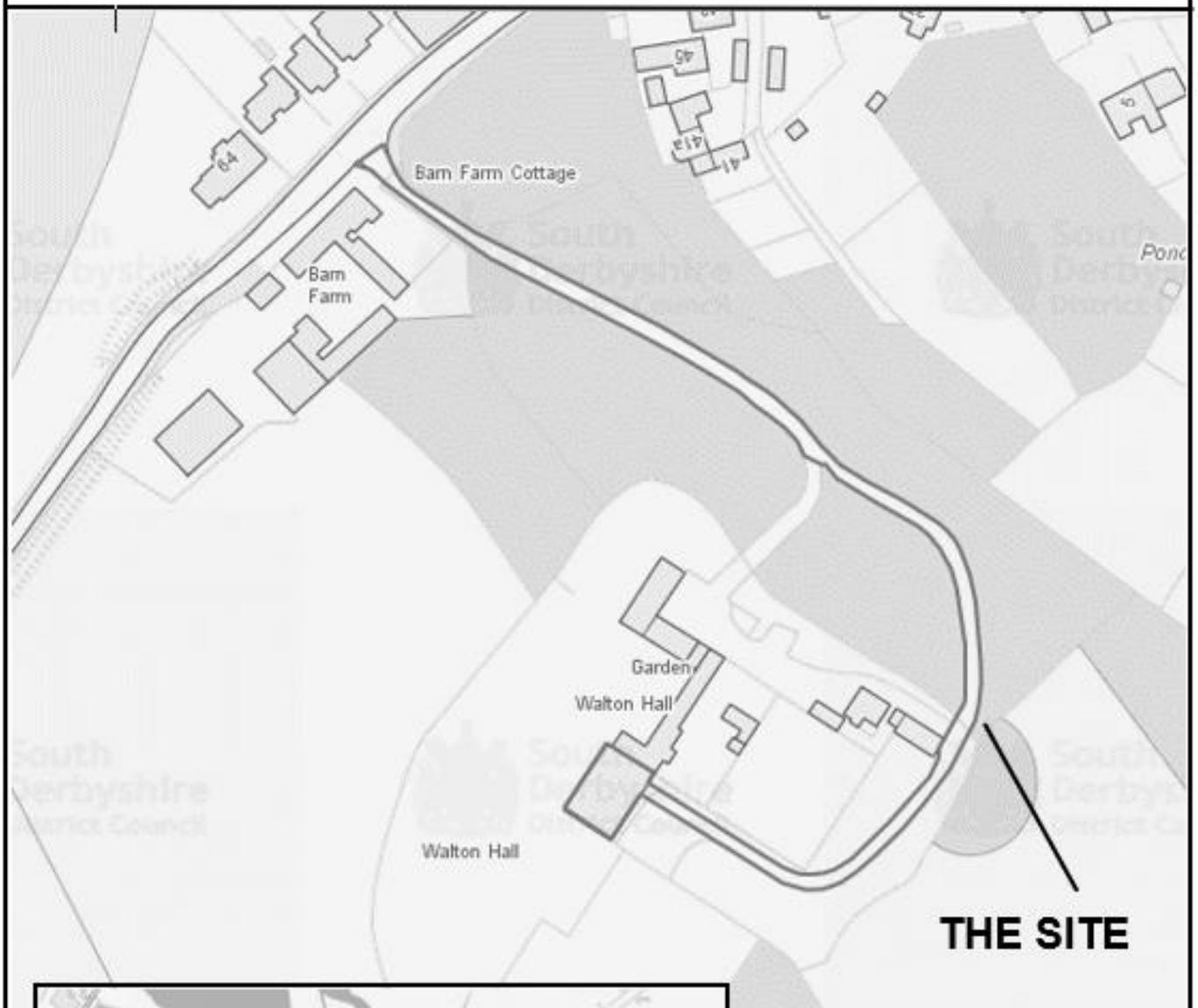
DMPA/2020/0445 - Repair, rebuild and re-use of existing outbuilding associated with main house to form plant room - Approved 06/07/2020

DMPA/2019/1006 - Listed Building Consent for the opening up of 7 former windows and modification to 1 external door - Approved 25/10/2019

DMPA/2019/0960 - Opening up of 7 former windows and modification to 1 external door - Approved 25/10/2019

9/2019/0293/FH – Proposed phase 1 works to the main hall comprising of the opening up of 8 former windows – Approved 6/06/2019.

**DMPA/2022/0412 – Walton Hall, Main Street, Walton-on-Trent, Swadlincote  
DE12 8LZ**



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South Derbyshire District Council. LA 100019461.2020

9/2019/0310/L – Listed Building Consent for proposed phase 1 works to the main hall comprising of the opening up of 8 former windows, relocating kitchen to the former library, forming new openings within internal walls and the repair and reinstatement of joinery details – Granted on 06/06/2019.

## **Responses to consultations and publicity**

### Historic England (HE)

Walton Hall with its attached stable range/service wing and garden wall is listed grade II\* in light of its more than special national historic and architectural character and interest, placing it within the top 8% of listed buildings in England. The hall is a fine example of an early Georgian smaller country house. The building dates from 1724-29 and was built for William Taylor, and has subsequent early C19 and C20 alterations. Internally the Hall retains many important historic architectural features including fine panelled rooms, the historic staircase, cornices, and historic flooring, all of which make an important contribution to its significance and special interest. The original plan form is also clearly discernible. The site is located within the Walton on Trent Conservation Area and makes a strong positive contribution to its character and appearance.

The proposed scheme includes alterations to Window GW14, along with associated works and the provision of en-suite facilities on the first and second floors.

It is proposed to create a new en-suite at first floor level to the former dressing room accessed off bedroom four. In addition, it is proposed to create an en-suite at second floor level to the former dressing room accessed by bedroom 9 and 10. It is also proposed to refurbish the existing WC room at first floor to the north side into a shower room and a new WC facility at second floor level.

We have previously provided advice in relation to these proposals at the pre-application stage. The proposed en-suite facilities have been sensitively sited in order to minimise any harm to significance. We therefore have no objection to this element of the proposed scheme, subject to the detailed design and servicing. We are content to defer to your in-house conservation officer in this regard.

The blind window GW14 is proposed to be re-opened on the ground floor. We have previously provided advice in relation to this element of the proposed scheme (applications DMPA/2019/1006 & DMPA/2019/0960). In our advice we outlined that we were unsupportive of the proposal for the reasons outlined below.

The current historic staircase and panelling runs across this opening. It is therefore unlikely that the two features existed contemporaneously. We believe installing a window in this position would be conjectural and would visually detract from the architectural composition and the proportions of the entrance hall. It would also require the removal of historic panelling from its original position.

Our view remains unchanged in this regard. Furthermore, we do not believe that the opening-up of other blind windows at the hall sets a precedent as each window should be assessed on its individual merit. The proposed opening-up of window G14 would clearly have a harmful impact for the reasons previously outlined.

We therefore continue to advise that we are unable to support this element of the proposal.

Whilst Historic England has no objection to the proposed installation of en-suites, we are unable to support the proposed alterations to window GW14 as outlined above. We therefore

recommend that this element is omitted from the scheme.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the applications to meet the requirements of paragraphs 199, 200 and 202 of the NPPF. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

Conservation Officer - I do not have any objections to the proposals for the en-suite facilities and the reinstatement of former blocked-up window opening at ground floor level.

With the opening-up of window G14, my assessment is that the proposed work would result in a degree of harm. I assess this to be less than substantial and consider it as medium impact. I take on board the comments from Historic England that the staircase and the window are unlikely to have previously existed contemporaneously, the likelihood being that the staircase was a 'new' staircase, albeit a significant time period has passed, which has resulted in a feature now considered worthy of retention.

With the creation of new en suite at first floor level and at the second floor level, the proposed en suites are positioned over the existing cloak room at ground floor and can easily connect into the existing foul water drainage. In addition, it is proposed to refurbish the existing WC at first floor to the north side into a shower room and creating a new WC facility over at second floor level. New waste water pipework will be concealed internally between the second and first floors, with the waste connecting to an existing cast iron SVP externally at first floor level.

It is my view, and this is my thinking for all historic assets, that their significance comes from their passing through time, the changes that each generation has made result in a patina, a valuable insight into changing fashions and craftsmanship. Owners are guardians of our heritage assets, and I have witnessed a desire by the new owners to protect and enhance this significant building. Allowing a small level of change to enable a more comfortable way of living, with a small alteration guided by 21st century conservation principles, is in my view a small level of harm to this magnificent building.

I conclude that I do not object to the proposals. I provide my comments to be presented in an Officer Report alongside those provided by Historic England for a final assessment at Planning Committee.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy BNE2 (Heritage Assets).

2017 Local Plan Part 2 (LP2): BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

Walton on Trent Conservation Area Character Statement 2014 (CACS)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant legislation is:

The Planning (Listed Buildings and Conservation Areas)

## Planning considerations

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

- The impact on the significance of the heritage assets (listed building and conservation area)

## Planning assessment

### The impact on the significance of the heritage assets (listed building and conservation area)

The NPPF states that when considered the impact of a proposal on the significance of a heritage asset great weight should be given to the assets consideration, irrespective of the level of harm and that any harm should require clear and convincing justification.

Policies BNE2 and BNE10 are in line with this national guidance and requires proposals to demonstrate how they have taken account of scale, form and siting.

Discussions with the Local Planning Authority and Historic England regarding this asset have been on-going in relation to various works, including the openings of the windows and internal alterations. The owner's overall vision for the site is to carry out a rolling programme of phased construction plan to refurbish, repair and upgrade the main hall, adjoining buildings and outbuildings. It is proposed to refurbish the main hall as the owner's main residence for use as their family home. The hall requires significant investment and upgrade to bring the listed building up to a standard and level of comfort and amenity that is expected of 21st century living.

The current proposal is for the reinstatement of 1 no former window adjacent to the main stair on the ground floor and the creation of additional bathroom/en suite and WC facilities on the first and second floors of the property. The application is supported by a Design, Access and Heritage Statement which provides detailed information and justification for the works identifying that the current owners have carried out a programme of urgent repair works after decades of neglect to prevent water ingress and provide the basis for undertaking further steps to suitably modernise the building and continue investing in its future.

Works proposed under this application are to reinstate and open-up the former ground floor window to the south east elevation, adjacent to the main stair. This is the last former window opening to the property to be reinstated. The former window has been bricked up, rendered and painted with a crude and simplistic image to give the impression of a window opening. The former window opening has been built with a brick arched head to match the elevation. The external masonry infill is recessed exposing a masonry reveal. Previous planning approval has been gained for opening up former blocked up windows at the property and has set a precedent. This has been carried out with success and has been a positive contribution to the development of the property. With the opening up of the window the applicant wishes to bring more light into the internal space and the condition of the external blocked up window and evidence of it being glazed, as per the other openings.

Historic England are unsupportive of this part of the proposal they say that they believe installing a window in this position would be conjectural and would visually detract from the architectural composition and the proportions of the entrance hall. It would also require the removal of historic panelling from its original position and this would have a harmful impact on the heritage assessment. They consider that the significance of harm to this element of the proposal has not been clearly and convincingly justified as required by paragraph 200 of the

NPPF 2021.

South Derbyshire District Councils Conservation Officer has visited the site and acknowledges that an open aspect glazed window would not have existed at the same time as the staircase in this orientation or position within the house. The proposed alteration may distort the interpretation of the plan form that is (conjecture) being created by installing a new window and 'to match' timber detailing inside. Within the heritage assessment submitted it is indicated that the original form was a true window; that a past alteration requiring a second staircase resulted in the owners at the time blocking up the window. However, whilst mindful of the comments of Historic England the Conservation Officer is of the view that the proposed works would result in a degree of harm which is considered to be less than substantial, and would have a medium impact. The works would assist the applicant in his refurbishment of the hall to ensure that the level of comfort and amenity that is expected of 21st century living is achieved and help secure the future of the hall. Accordingly they are of the view that this aspect of the proposal is in accordance with the relevant sections of the NPPF and can be supported.

The proposal for the alterations to form new bathroom/ensuite facilities is to create a new ensuite at first floor level to the former dressing room accessed off bedroom four. In addition, it is proposed to create an en-suite at second floor level to the former dressing room accessed by bedroom 9 and 10. It is also proposed to refurbish the existing WC room at first floor to the north side into a shower room and a new WC facility at second floor level. We have previously provided advice in relation to these proposals at the pre application stage. The proposed en suite facilities have been sensitively sited in order to minimise any harm to significance. Neither Historic England or SDDC Conservation Officer has an objection to this part of the proposal.

On balance and having regard to the proposals and the comments received it is considered that the development, as submitted, is inline with the desirable objective described in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would conform to the requirements of Policy BNE2 of the Local Plan Part 1 and Policy BNE10 of the Local Plan Part 2.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents received on the 22nd March 2022 and 25th April 2022; unless as

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

Reason: For the avoidance of doubt.

3. If during development any unexpected features, not identified in the Design, Access and Heritage Statement or approved plans are discovered, works shall cease until the Local Planning Authority have had the opportunity to inspect and record, where necessary such features. Works can commence thereafter once it has been agreed in writing by the Local Planning Authority.

Reason: To enable heritage remains and features to be adequately recorded, in the interests of the cultural heritage of the District and in accordance with policy BN2 of the Local Plan Part 1 and BNE10 of the Local Plan Part 2.

**Item No.** 1.11

**Ref. No.** [DMPA/2021/1437](#) and [DMPA/2021/1505](#)

**Valid date:** 23/06/2022

**Applicant:** Kerry Churchill

**Proposal:** **Demolition of a boundary wall and the erection of fencing and a replacement gate and the retention of an electric vehicle charging point; and**

**Listed building consent for the demolition of a boundary wall and the erection of a replacement gate and the retention of an electric vehicle charging point at Tudor Lodge, 33 High Street, Repton, Derby, DE65 6GD**

**Ward:** Repton

### **Reason for committee determination**

These applications are presented to the Committee due to the applicant being related to an elected member of the council.

### **Site Description**

The application site falls within the key service village of Repton and comprises of Grade II listed Tudor Lodge (NHLE ref. 1054889). The building is of timber frame construction, two-storey, with attic space, and dates to the late-16th century, and was altered in the mid-19th century. There is a mid-20th century flat roof single storey extension to the rear (east) elevation. The property occupies a prominent position along the main thoroughfare, High Street, with a low brick boundary wall fronting the pavement, which is also covered by the statutory listing. A long, linear garden can be seen to the rear which has a mix of boundary treatments, such as brick walls and timber fencing, along with mature trees, shrubs, and planting. Access can be gained to the rear of the site to the side (north).

The application site is located within Repton Conservation Area (designated 17 July 1969, 25 February 1982, and 31 January 2013). There are several listed buildings located along High Street; the nearest to the application site includes Grade II listed Stone House (NHLE ref. 1096498) located adjacent (north) and Grade II listed St Wystan (NHLE ref. 1096538) located opposite (west). Therefore, the property forms part of an architectural ensemble of historic buildings which are illustrative of the area's historic settlement pattern, thus, contributing to the character and quality of the street scene within Repton Conservation Area.

### **The proposal**

The applications seek planning permission and listed building consent for the demolition of 6.7m section of existing rear brick boundary wall and its replacement with a 1.8m high sectional timber fencing with concrete posts and kickboards. The proposal also includes a replacement gate and the retention of an electric vehicle charging point.

The proposed fencing is to match the existing concrete post and timber panel fencing seen along the garden's north-eastern boundary. This section of fence was retrospectively approved at Planning Committee (decision date 26 August 2020) under planning application DMPA/2020/0647 - the application was for the retention of an existing boundary fence and the

DMPA/2021/1505 & – DMPA/2021/1437 Tudor Lodge, 33 High Street, Repton, Derby, DE65 6GD



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South Derbyshire District Council  
South Derbyshire District Council, LA 100019461.2020

erection of a shed and replacement garage.

The replacement gate would take the form of a roller shutter, with the shutter box located facing inwards (south), with a finish to blend with the proposed wooden fence boards, and as confirmed by the applicant's email (dated 7 August 2022) the roller shutter would adopt a timber-effect finish.

The electric vehicle charging point has been installed and is located behind the existing gate on the rear (east) elevation of the mid-20th century single storey extension.

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

Design and Access Statement, including Heritage Statement (received 14 October 2021)

This describes the site and outlines the proposal. It details that pre-application advice was sought and includes the discussions which took place and the response to this.

### **Relevant planning history**

9/2017/0150/L - Clean and repair structural timber frame, infill panels and stone plinth, replacement windows to front (west) elevation and one windows to south elevation, install a gather hood and flexible liner to the ground floor fireplace flue and clean the internal exposed structural timbers - LBC granted 6th April 2017.

DMPA/2020/0647 - The retention of an existing boundary fence and the erection of a shed and replacement garage - Approved 26 August 2020.

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

No representations received.

The District Council's Conservation Officer has not commented on the application as the case officer is conservation accredited. Therefore, heritage considerations have been fully incorporated into this report.

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

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan for South Derbyshire District Council consists of Local Plan Part 1 (2016) and Local Plan Part 2 (2017). Decisions on planning applications in Repton are to be made in accordance with SDDC's development plan policies and the Repton Neighbourhood Plan (made 6 January 2020), unless material considerations indicate otherwise.

#### Relevant policies:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption in Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), and Policy BNE2 (Heritage Assets), Policy BNE3 (Biodiversity), and Policy BNE4 (Landscape Character and Local Distinctiveness).

2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

The Repton Neighbourhood Plan 2016-2028 sets out a vision and five core objectives for the area, including specific neighbourhood plan policies, such as Policy H2: Development within

Settlement Confines, Policy H4: Design of New Developments, and Policy OS3: Important Trees and Hedgerows.

Relevant National Policies & Guidance:

National Planning Policy Framework (NPPF):

Chapter 2 – Achieving Sustainable Development

Chapter 12 – Achieving Well Designed Places

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment.

Planning Practice Guidance (PPG):

Reference ID 18a – Historic Environment

Reference ID 26 – Design: process and tools.

Relevant local guidance:

South Derbyshire Design Guide Supplementary Planning Document (SPD).

Repton Conservation Area Character Statement 2013 (CACS).

Other relevant guidance

Historic England Good Practice Advice note 2 (GPA2) Managing Significance in Decision-Taking in the Historic Environment (2015).

Relevant legislation:

Sections 16(2) 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Planning considerations**

It should be noted that planning application DMPA/2021/1437 is linked to listed building consent DMPA/2021/1505. Whilst the only considerations in respect of the LBC application is the impact of the proposals on the heritage asset this report forms a joint appraisal and as such considers this and all other impacts associated with the application for planning permission.

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

- Any impacts on heritage assets;
- Any impacts on the living conditions of the adjacent properties and the general character and appearance of the area;
- Any impacts on access and parking; and
- Any impacts on trees.

## **Planning assessment**

### Impacts on heritage assets

#### *Impact on the significance of Grade II listed Tudor Lodge and its setting*

The application site, Grade II listed Tudor Lodge (date first listed 02 September 1952), dates to the late-16th century, altered in the mid-19th century. It is a symmetrical timber framed property, incorporating box framing, set on a sandstone plinth, with plain clay roof tiles. It has a

lobby entrance plan form, with prominent two-storey projecting central porch, and central brick chimney stack. There is a low-level brick wall to the front of the property with half round copings, which forms part of the statutory listing. To the rear (east) elevation of the property is a flat roof, mid-20th century single storey extension noted within the statutory list description as being of no special interest.

The listed building, therefore, derives significance from its late-16th century origins, timber-frame construction, plan-form, use of local vernacular materials and detailing, along with the retention of historic fabric and features, whilst also being illustrative of historic settlement patterns to the area.

A mature garden bounded by a mix of brick walls and timber fencing can be seen to the rear. From the OS maps 1843 to 1893, the land to the rear appeared long and linear in form with orchard space to the east. Whilst the existing garden maintains a generous plot, it is likely that its boundary lines have changed over time.

Beyond the garden's eastern boundary retains a relatively verdant character; most likely owing to neighbouring gardens and mature soft landscaping. The rear brick wall located to the side northern boundary of the garden, subject to this application, possibly dates to the mid/late 19th century with half round copings. The wall is simple and unadorned in character, with an incoherent brick bond. Due to changes in boundary treatments to the rear of the site, it is likely that the wall has been reduced in length over time.

The statutory list entry does not include the rear brick wall. However, Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 directs any object or structure fixed to the building; any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building. Therefore, given that the remaining section of the rear brick wall to the northern boundary appears to predate 1st July 1948 it is likely to be covered by the main listing.

The condition of the section of brick wall proposed to be removed has deteriorated due to the presence of two mature trees, which have caused notable movement towards the wall's western end. The wall has a notable vertical crack, and an outwards lean. A timber support can be seen to the outer face of the wall (north).

Due to the close proximity of the trees to the boundary, the application proposes to erect fencing as opposed to rebuilding the section of wall to help to avoid any potential damage to tree roots from building works. The style of fencing would adopt the same appearance as that already existing to the rear of the site.

The mature beech tree and oak tree occupy setback positions from the street scene; however, due to their height and wide canopies and a visual gap between the application site and 31 High Street, the trees can be seen from the street scene. Therefore, they are considered to positively contribute to the character and visual amenity of the area. It should be noted that the trees are not covered by Tree Protection Orders.

Careful consideration has been given to the section of brick wall to be removed; the remaining section of wall to be retained; and the existing character of boundary treatments to the rear of the site. Whilst the wall is of some age and interest, its significance is seen as minor when taking into account the special interest of the 17th century principal listed building. Therefore, on balance, whilst a section of historic fabric would be lost it is not considered that this would be harmful to the overall significance of the site, when considering the location of the wall and

the historic and architectural interest of the principal listed building. Nor would it detract from the ability to appreciate Grade II listed Tudor Lodge when considering its setting.

Consideration has also been given to the appearance of the new sectional fencing which is proposed to match the existing seen to the rear garden. Therefore, on this basis, it is considered that it would have no more of an impact on the setting of Grade II listed Tudor Lodge than currently experienced.

There are no concerns with the retention of the existing electric charging point. The charging point has been installed in a discreet location to the rear of the property and is fixed to the mid-20th century rear extension; thus, avoiding impacting on any historic fabric or features.

In terms of replacing the existing modern timber gate, a single-leaf, inward-opening gate, or a like-for-like replacement would have reflected the appearance of the existing gate. However, it is appreciated that there are existing difficulties in terms of manoeuvring vehicles through the opening due to the configuration of the driveway and the angle of the side wall of the property. The proposal is for a roller shutter gate which would abut the mid-20th century rear extension, with the roller shutter box facing inwards (south) into the garden. As confirmed by the applicant's email (dated 6 August 2022), the roller-shutter would adopt a timber effect finish to help maintain a recessive appearance.

It is considered that the gate would occupy a discreet location to the rear of the site, which would be obscured from view by the presence of the existing solid timber gates located to the shared side access between the application site and neighbouring property, 31 High Street. Therefore, on balance, it is not considered to cause harm to the significance of the listed building nor to detract from its ability to be appreciated. However, to secure the appearance of the gate it is recommended that a planning condition requiring full details of the roller-shutter shall be submitted to and agreed in writing by the Local Planning Authority.

#### *Impacts on the setting of nearby listed buildings and the character and appearance of Repton Conservation Area*

As aforementioned, in terms of nearby listed buildings these include Grade II listed Stone House, 31 High Street located immediately adjacent (north) and Grade II listed St Wystan's, 30 High Street located to the opposite (west) side of the High Street. Given the nature of the proposal affecting the rear of the application site, it is not considered that Grade II listed St Wystan's would be impacted by the proposal. The proposal would be located opposite the adjoining rear brick range at Grade II listed Stone House. It is noted that the statutory list description for Stone House refers to the brick range as being of no special interest. When taking into account the lack of prominence of the proposal from the street scene, it is not considered that it would have a negative impact on the setting of Grade II listed Stone House. Therefore, avoiding causing harm to the listed building's significance from development within its setting.

Due to the discreet location of the proposal to the rear of the application site along with the retention of mature trees, it is considered that the proposal would cause no harm to the significance of Repton Conservation Area; thus, preserving its character and appearance.

Overall, the Local Planning Authority has had special regard to the desirability of preserving the historic building, and features of architectural or historic interest, which it possesses, as required under Sections 16(2) and its setting and the setting of adjacent Grade II listed Stone House, as required under 66(1) of the Planning (Listed Buildings and Conservation Areas) Act

1990. The Local Planning Authority has also paid special attention to the desirability of preserving Repton Conservation Area's character and appearance, as required under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal is also considered to be in accordance with Chapter 16 of the NPPF, paragraphs 194, 195, & 197, and Local Policies BNE2 of the LP1 and BNE10 of the LP2.

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

It is acknowledged that the existing height of the gate is 1.8m and that the gate previously had additional timber boarding constructed above, which provided an overall height of 3m. During a recent site visit, it was noted that the timber boarding above the gate had been removed. However, Figure 5 of the supporting information illustrates it in situ. The proposed roller shutter would have a maximum height of 2.7m.

The existing boundary wall measures 1.5m in height, with additional timber fencing erected above the wall providing an overall height of 2.1m. Whilst on site, it was also noted that a section of the timber fencing above the wall had been removed. Figure 4 of the supporting information illustrates it in situ. Site photographs also illustrate the remaining timber fencing above the section of brick wall which is to be retained. It is proposed to replace 6.7m of the existing brick wall with sectional timber fencing measuring 1.8m in height with concrete posts and kickboards.

Due to the existing arrangement of windows to the side (south) elevation of the adjacent neighbour, 31 High Street, it is acknowledged that there is an existing level of overlooking towards the rear garden of the application site. Careful consideration has, therefore, been given to the existing layout and separation distances between the built form of the host property and its adjacent neighbour 31 High Street, along with the existing presence of boundary treatments and trees along the site's northern boundary. On balance, it is considered that the proposed gate and fencing are unlikely to cause undue levels of overbearing, overshadowing, or loss of light to neighbouring amenities than currently experienced.

Due to the close-knit development pattern along this section of the High Street and the presence of high close-boarded gates between the application site and 31 High Street, it is acknowledged that there are restricted views of the rear of the site when viewed from the street scene. Therefore, due to the scale and setback position of the proposed gate and fencing, it is considered that it would avoid having a negative impact on the visual amenity and character of the area.

Whilst the existing mature trees to the rear of the site are setback from the highway their canopies are visible from the public realm and provide maturity to the street scene. Therefore, by retaining these trees will maintain their positive contribution to the character and quality of the area.

#### Impacts on access and parking

No alterations are proposed to the existing access and parking arrangements.

#### Impacts on trees

The beech tree (illustrated as 'A' on the supporting information) and the oak tree (illustrated as 'B') are not covered by a Tree Protection Order. Nonetheless, as mature trees it is important to

ensure that adequate root protection is provided during the demolition of the section of wall and construction stage of the fence, to safeguard the future health of the trees. The applicant has also referenced in their email (dated 6 August 2022) that as the trees grow and move, then the choice of sectional fencing will allow individual panels to be replaced as necessary, as opposed to having to replace a whole single stretch of close-boarded timber fencing.

Therefore, it is recommended that a condition is attached to any permission to ensure that appropriate tree protection measures are put in place to minimise harm to these trees, such as using hand tools to demolish the wall, using protective fencing and ground boards to protect the trees and roots during construction, in accordance with best practice BS5837 - Trees in Relation to Design, Demolition and Construction.

### Conclusion

The proposals are not considered to conflict with Sections 16(2), 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies S2, SD1, BNE1, BNE2, BNE3, & BNE4 of the LP1 (2016), and Policies H27, BNE7 & BNE10 of the LP2, Policies H2, H4, & OS3 of the Repton NP, the Council Design Guide SPD, along with Chapters 2, 12, and 16 of the NPPF. Therefore, both applications are recommended for approval, subject to the recommendations as set out below.

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

### **Recommendation for application DMPA/2022/1437**

**Approve** subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the Location and Site Plans (received 23 June 2022), and details submitted within the 'Site Plan & Photos' document (received 14 October 2021) and 'Application Supplementary Information' document (received 17 June 2022) unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The roller-shutter gate shall have a timber-effect finish. Before the roller-shutter gate hereby approved is installed full details and specifications of the roller-shutter gate shall be submitted to and agreed in writing by the Local Planning Authority. The development shall only be carried out in accordance with the agreed details.

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

4. No development, including preparatory works, shall commence until protective fences have been erected around all trees shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained.

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

Informatives:

- h. This approval must be read and implemented in conjunction with approval ref. DMPA/2022/1505 which deals with associated listed building works.

### **Recommendation for application DMPA/2022/1505**

**Approve** subject to the following conditions:

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

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

2. The works hereby permitted shall be carried out in accordance with the Location and Site Plans (received 23 June 2022), and details submitted within the 'Site Plan & Photos' document (received 14 October 2021) and 'Application Supplementary Information' document (received 17 June 2022) unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt, to ensure that the works take the agreed form envisaged by the Local Planning Authority when determining the application and to ensure the works preserve the special architectural and historic interest of the listed building.

Informatives:

- a. The Listed Building Consent is granted in strict accordance with the approved plans and specifications contained in the application. It should however be noted that: a) Any variation from the approved plans and specifications following commencement of the works, irrespective of the degree of variation, will constitute unauthorised works, would be a criminal offence and would be liable for enforcement action. b) You or your agent or any other person responsible for implementing this consent should inform the Local Planning Authority immediately of any proposed variation from the approved plans and ask to be advised as to the best method to resolve the matter.
- b. This Listed Building Consent is granted subject to conditions and it is the owner and the person responsible for the implementation of the works who will be fully responsible for their compliance throughout the works and beyond.

- c. With regard to the section of rear brick boundary wall to be demolished, bricks should be removed by hand, and, if needed, turned to achieve a good quality finish to corners and the materials stored on site for re-use. Cutting bricks with power-driven tools should be avoided as this can cause an unsightly finish and damage to masonry. Works of making good to the remaining rear brick boundary wall, should be finished to match the existing with regard to brick type, mortar, and pointing technique.

**Item No.** 1.12

**Ref. No.** [DMPA/2022/0844](#)

**Valid date:** 13/06/2022

**Applicant:** Martin Reid

**Proposal:** Demolition of buildings, and redevelopment of site to provide additional car parking spaces and urban park. Alterations to Market Hall, including removal of existing roof; erection of painted metal canopy, brickwork, fencing and solar panels; installation of lighting; and associated landscaping; to create a multi-functional space for 42 car parking spaces and events space for specialist markets and cultural events. Banks House/Bretby View, Sabines Yard and Market Hall, Midland Road, Swadlincote, DE11 0AG

**Ward:** Swadlincote

### **Reason for committee determination**

South Derbyshire District Council are the landowner and applicant for this proposal.

### **Site Description**

The site falls into three sub areas which will be considered in turn. The former Market Hall, off Midland Road, previously used as a market and more recently for car parking until it was closed during the 2020 pandemic, is a functional building that is largely considered out-dated and unattractive. Whilst the main part of the building is dark and unsightly, it does have features to its front elevation on Midland Road which are of architectural merit and local vernacular, and contribute positively to the streetscene of Midland Road.

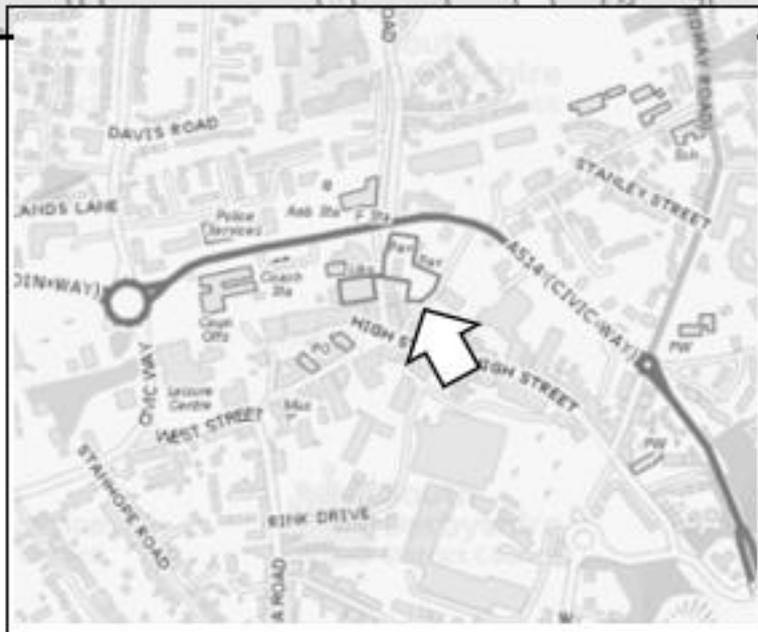
Bank House and Bretby View are large Victorian houses (semi-detached) that previously appear to have been a large house (Bank House) and two smaller cottages (now Bretby View). They have been empty for some time and have fallen into a state of disrepair. The grounds of these properties are largely laid to hardstanding to facilitate an informal car park, used by market traders. There are a number of mature trees on the site, particularly to the western boundary, as well as mature hedgerows to the western and northern boundary.

Sabines Yard is a former foundry site, now a cleared brownfield site with shrubs and plants growing through remaining hardstanding. The site is bordered by a brick wall of which there is evidence of repair in many places. Wrought iron gates remain in place behind the security fence.

### **The proposal**

The proposal, which falls in to three sub proposals, comprises, the removal of the former market hall roof and creation of a multi-functional car parking and events space/lightpark; the demolition of Bank House and Bretby View to form a formal car park; and the regeneration of the Sabines Yard site to form a landscaped park and formal car park. The proposal will provide additional car parking spaces for Swadlincote town centre, a 'pocket park' and the regeneration of vacant, derelict sites.

**DMPA/2022/0844 – Banks House/Bretby View, Sabines Yard and Market Hall, Midland Road, Swadlincote, DE11 0AG**



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## **Applicant's supporting information**

The application has been supported by:

- Design and Access Statement
- Drainage Strategy
- Noise Impact Assessment
- Proposed Lighting Schedule
- Heritage Statement
- Bat Report
- Mining Investigation Report
- Coal Mining Report
- Ground Investigation Report
- Transport Statement

## **Relevant planning history**

### Former Market Hall

9/2011/0688 -Alterations and change of use from indoor market to indoor car park at Market Hall, Midland Road, Swadlincote - approved 12/10/2011.

9/2016/0745 - Change of use from car parking to mixed use for car parking and/or activity for events, organised activities/schemes and exhibitions at Market Hall, Midland Road, Swadlincote - approved 08/09/2016.

### Sabines Yard

9/2004/1215 - The residential development of Sabines Yard, Belmont Street, Swadlincote - approved 13/12/2004.

9/2016/1154 - Change of use with removal of concrete slabs and regrading of levels to create vehicle parking area along with erection of lighting at Sabines Yard, Belmont Street, Swadlincote - approved 08/02/2017.

## **Responses to consultations and publicity**

County Highway Authority have no objections to the proposal following the receipt of amended plans showing acceptable car parking standards and visibility sightlines.

Derbyshire County Council Archaeologist has stated that the proposal site is within the medieval core of Swadlincote as defined in the Extensive Urban Survey for the town. There is potential below-ground for archaeological remains associated with the medieval town, though this will no doubt be variable and impacted to a greater or lesser extent by the subsequent history and uses of the site(s). The archaeological dimension of the site has not been explored in the applicant's heritage statement, and this does not therefore meet the requirements at NPPF para 194 in relation to archaeological assets. I note that the proposals are potentially fairly low impact in terms of below-ground impact, though this is not quantified in the application and it is possible that resurfacing, planting, drainage and services could all have archaeological impacts. I recommend therefore that the archaeological significance and impact of the site is developed further through an archaeological impact assessment produced by a suitably accredited (CIfA) professional organisation. This should not be a generic desk-based assessment but should be closely site specific. It should include historic map regression, analysis of the GI test pit results, and a site visit in order to zone archaeological potential and depth within the site (establish significance), intersected with a clear digest of the location

extent and depth of proposed groundworks in order to understand levels of archaeological impact.

South Derbyshire Conservation Officer The application seeks to redevelop an area of the town, which at this time is reported as having a negative impact upon the character and appearance of the Conservation Area, as included in the Conservation Area Appraisal: *Former Covered Market, Midland Road - this is a large, squat building with a flat roof and is dominated by a brick curtain wall, security shutters and steel grilles. It is now used as a car park giving it a limited outlook and no positive relationship with the street or other buildings. This means that it lacks the vitality needed to make a contribution to the public realm or to promote a safe environment.*

The proposal is to adapt and repurpose the existing Market Hall building, thus creating a multi-use space, with the intention of regenerating this area of Midland Road. I make no objection to the principle to adapt the Market Hall.

The project also includes a proposal to further clear the site of a former industrial area, referred to as Sabine's Yard. This includes public realm and the creation of car parking provision. I make no objection to the principle to adapt this space and to include public realm improvements. As per conversations I have had with the Property & Estate's Team, public realm alterations within the town centre should share a palette of materials, street furniture and colours for consistency and cohesion.

The project involves the demolition of a property on the corner of Midland Road and Civic Way. Visible in the OS 1843-1893, (site below #306 to top centre of image below). A substantial Victorian residential property with grounds, since converted and adapted, and last use as offices. The building is derelict, and the former gardens used as informal parking.



The building is included in the Conservation Area Appraisal as one having a positive contribution to the character and appearance of the Conservation Area. Not having been involved in the writing of the document, but having written similar, I would suggest that the criteria used to conclude this point are:

- Substantial corner plot
- An elevated plot with clear boundary detailing
- A positive immediate setting with landscaping
- Traditional vernacular architecture and construction materials

- Positive architectural detailing and traditional Victorian features
- Contemporaneous with the development of the industrial town centre

It would be preferable to maintain, redevelop and repurpose this building. However, this is not a designated heritage asset, and I accept that not all historic buildings can be saved and repurposed. Therefore, I assess the potential impact upon the Conservation Area. Overall, I do concur with the Conservation Area Appraisal that this is a positive corner plot on the entrance to a historic Conservation Area. Ideally, I would prefer to see a structure at this junction of the road, rather than an open space, as this is the character of the street scene.

The site (in its current condition) has been identified as having a negative impact upon the town centre – it is untidy, is used for informal car parking, and has become an area experiencing anti-social behaviour. Therefore, any loss should be mitigated by positive improvements to a key entrance to the Conservation Area. If the building is beyond repair and repurpose, the public benefits must outweigh the loss. The proposal seeks to regenerate this part of the town centre as a single zone, to have a greater impact upon the character and appearance, with a view to create a positive social area that has the ability to deliver a range of events and provide facilities, including parking, for the visitors.

### Derbyshire Wildlife Trust

We have reviewed the following documents: -

- Bat Report prepared by Elton Ecology Ltd October 2021
- Tree Survey and Arboricultural Impact Assessment prepared by ProHort Ltd May 2022
- Design and Access Statement

The development site includes several buildings, a small number of trees, 2 hedgerows and some areas of recently developed scrub, ruderal and grassland / tall herb vegetation (for the most part associated with Sabine's Yard and land close to Bank House). The Bat Report provides the results from 2 emergence (dusk and dawn) surveys carried out on Bank House after a Preliminary Bat Roost Assessment concluded that the building had moderate potential to support bat roosts. The assessment is considered to be in accordance with best practice and current guidelines. The survey did not identify any bats emerging from the buildings and therefore no further bat surveys of the building are considered necessary at this time.

The arboricultural assessment has included an assessment of the suitability of the trees for bats and concluded that none are suitable. Whilst it is unclear whether the person undertaking the arboricultural work is also qualified to make the bat assessments, the report has concluded that none of the trees or hedgerows surveyed as part of the assessment are to be removed and as such impacts on bats are considered unlikely.

The hedgerow on the eastern boundary was not included in the survey. It is assumed that this hedge is outside of the red line boundary and unaffected by the proposals.

### Biodiversity Net Gain

Whilst the application is not accompanied by an assessment of the vegetation or a biodiversity net gain report the overall impact is considered to be relatively minor. There are no known features of nature conservation value including designated sites (statutory or non-statutory) directly associated with the site or immediately adjacent. The development will result in the loss of recently established vegetation including some shrubs, ephemeral grassland and tall herbs within Sabine's Yard. However, this area is only 0.1 ha in size so any vegetation will be very limited in extent and would not meet the definition for open mosaic habitats on previously developed land. My interpretation of the proposals indicates that an area of c. 0.04 ha will be used for greenspace including a community orchard, grassland and some shrub/tree planting. There is also some potential elsewhere for tree and shrub planting. The implementation of these measures should provide scope to achieve a small net gain for biodiversity. However,

the Council is recommended to require confirmation that a net gain for biodiversity is achieved via a biodiversity enhancement condition as suggested below.

#### Bats

No further surveys are considered necessary at this time, but if it becomes necessary to fell or carry out any pruning work to any of the trees, further bat assessments should be undertaken.

#### Other protected species

We are not aware of the presence of protected species on the site and due to the isolated urban nature of the site and the fairly limited vegetation it is considered unlikely that the site would support reptiles, great crested newt, water vole, otter or badger. There is a possibility that birds may breed in the margins of the site and within vegetation in Sabine's Yard. There is also a possibility of hedgehog being present.

#### Trees

We support the measures recommended in the arboriculture report and these should be implemented in full.

In addition, the Council is advised to attach conditions relating to breeding birds and site clearance and lighting.

#### Environmental Health

The proposed development consists of the repurposing of the existing. Market Hall on Market Street, Swadlincote, including the removal of roof and supporting walls and opening it up as a multi-purpose town centre leisure space.

I understand that the exact uses of the proposed space are likely to be variable, but from a noise perspective the most significant uses are likely to be the occasional provision of events involving either live music or pre-recorded music.

Note: Either of these forms of activity will also require an appropriate license under the 2003 Licensing Act – namely a Premises License or individual Temporary Event Notices for each event.

Prior to the first use of the proposed development, I would recommend that the exact nature of the licensing requirements be established and approved with the Council's Licensing Team.

#### **Noise Law and Policy**

National Planning Policy Framework (2021) para 174 states:

*Planning policies and decisions should contribute to and enhance the natural and local environment by*

*e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution*

NPPF para 185 states:

*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*

Planning Practice Guidance – Noise provides some further support for planning decisions in so far as it defines some key human health effect levels, namely;

- **Significant observed adverse effect level (SOAEL):** *This is the level of noise exposure above which significant adverse effects on health and quality of life occur.*
- **Lowest observed adverse effect level (LOAEL):** *this is the level of noise exposure above which adverse effects on health and quality of life can be detected.*
- **No observed effect level (NOEL):** *this is the level of noise exposure below which no effect at all on health or quality of life can be detected.*

However, the guidance stops short of stating what noise levels in quantitative terms these health effects occur at. Instead, it states a noise hierarchy to help recognise when noise is likely to be a concern in the planning process.

For the purposes of a development of this type I have sought information from the most appropriate peer reviewed technical guidance in order to establish quantified noise levels for the SOAEL and LOAEL.

The Code of Practice on Environmental Noise Control at Concerts, (Noise Council, 1995), provides objective Guidelines for Music Noise Levels (MNL) for ‘large music events’ in open air sites or lightweight buildings. The proposed event location cannot be realistically considered to be a ‘large music event’ however the Guidance provides a useful starting point for setting acceptable noise standards for the purposes of this development proposal.

The MNL stated at section 3 of the Guidance is summarised below and applies to event music up to 23:00hrs:

<b>Days Per Year</b>	<b>Venue Category</b>	<b>Guideline MNL</b>
1 – 3	Urban Stadia or Arena	MNL should not exceed 75dBA over 15 minutes
1 – 3	Other Urban or Rural Venues	MNL should not exceed 65dBA over 15 minutes
4 – 12	All venues	MNL should not exceed the background noise level by more than 15dBA over a 15 minute period

Based on my experience, adverse responses to noise from music and other leisure events is as much linked to perceptions of how well the event is being managed as it is to the measurable noise exposure level.

Ensuring that the development proposals remain below the SOAEL and therefore acceptable in planning policy terms, in my opinion need to be linked to both quantitative (and therefore measurable) Music Noise Levels and to qualitative but demonstrable event management standards.

### **Noise Sensitive Receptors**

The nearest noise sensitive receptors are understood to be in the following locations:

- Willow Court, located approximately 105m from the centre of the footprint of the Market Hall.

- Flats above commercial premises at Belmont Street (Flats 4 – 12), approximately 55m from the centre of the footprint of the Market Hall.
- Flats above 4 High Street, approximately 80m from the centre of the footprint of the Market Hall.

All of these receptors are in a town centre, predominantly commercial setting and subject to existing traffic and town centre noise. Background noise levels in locations of this type will typically be in the 40 – 45dBA range (L<sub>A90</sub>).

I am satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that conditions are attached.

Coal Authority - I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate that the site lies within an area of probable shallow coal mining that may be attributed to the thick coal seam, inferred to outcrop at or close to the surface of the site. In addition, there are two mine entries within or within 20m of the site: one on-site mine entry: CA shaft ref 429319-018 and one off-site mine entry: CA shaft ref: 430319-002. The Coal Authority hold no treatment details for these mine entries (therefore these need to be considered as being untreated) and due to the historic source plans used to plot their current position, this could vary by several metres. The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries> These coal mining features could affect public safety and stability for the proposed development.

The planning application is accompanied by a Mining Investigation Report (2305B, February 2022) prepared for the proposed development by Ground Investigation Specialist Limited (GIS Ltd). The Report has been informed by the content and conclusion of the Desk Study Report, (2305, September 2021) which also accompanies this application and the results of intrusive ground investigation work in the form of rotary drilling to maximum depth of 20m and probe drilling to confirm the exact location and condition of the on-site mine entry. Borehole logs and a plan to illustrate where the boreholes are drilled are appended to the Report.

The report author refers to the application as three sites: Site A: allocated for open-air concerts and Site B and C: new car parking areas.

The report author informs that whilst two thin coal seams were encountered in Site A (4.6m – 5.0 m and 8.0 – 8.3 m ) and one intact coal seam (6.0m to 6.4m) at Site C no evidence of these seams being worked were encountered and given their thickness Section 4.1 identifies that it is unlikely that these would have been worked. The report author, states that assuming the ground conditions are consistent across the whole site, considers that the proposed development can be regarded as stable from a shallow mining viewpoint and no specific foundation designs for Site A (for the open-air concert venue) are required.

As there are two (GIS Ltd identify three) mine entries within or within influencing distance the car parking areas, the Desk Study Report recommends that without the benefit of site investigations, the edge of both car parks do not extend to within 5m of the boundaries of

either site at their closest points to the two off-site mine shafts. Site investigations have confirmed the position and condition of the on-site mine entry, which the report author informs that treatment of this mine shaft (pressure grouted / reinforced concrete cap) will be required.

We would have expected the on-site mine entry together with its calculated no build (stand-off) zone and the influencing distance of the two off-site mine entries to be clearly illustrated on the proposed layout plan in order to ensure that the applicant has afforded due consideration to the professional opinion provided by their geotechnical consultants. However, I have been unable to find any plan to show these specific mining features to illustrate how they relate to the proposed development. We acknowledge that no buildings are being proposed for Site B and C, however we consider it would be useful for the LPA to have this detailed information.

Notwithstanding the above, in this particular instance, based on the nature of the development proposed within Site B and C (car parking only), we would have no objection to this information being submitted post planning decision but prior to commencement of development.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground improvement works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

#### Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

#### Sustainable Drainage

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Specific Conditions have been recommended to address the matters set out above.

Lead Local Flood Authority - no comments received at the date of writing this report.

#### Tree Officer

The development of land currently defined as the market shed, will not impact on existing trees, therefore, no arboricultural comments noted. The 2 main areas of development, Sabine's Yard and Bank House/Bretby View do have both on and off-site trees. A Tree Survey & Arboricultural Impact Assessment has been submitted by Jason Harker Arboricultural

Consultant ProHort Limited, commissioned by Martin Read of SDDC. Trees here are of consideration and covered below in the Assessment.

There are a total of 7 individual trees (T1-T7) affected by this development, T6 appears to be off-site, however, a tree warranting material consideration. There are 2 hedgerows, which are to be retained and not covered in this assessment. Trees affected are listed within the submitted report and have been evaluated in line with BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations. A tree Constraints Plan detailing tree quality categories, and a Tree Removal and Protection Plan detailing the development proposals, forms part of the report. Details of trees to be retained and temporary tree protection with fencing alignment is also detailed within the report.

The site is split into 2 distinct areas, and the report trees surround Bank House and its current parking area. Sabine's yard is to be landscaped and there are no trees of note within this area. The report contains photographs of the trees and a summary (section 9). The summary is accurate, however, whilst stating the trees are not subject to a TPO, are within the Swadlincote conservation area, and therefore are afforded statutory protection under the Town and Country Planning Act 1990, Section 211. The report has categorized all trees as being valued as category B1 features. A scaled plan (Drawing 1) of the existing Development along with all relevant Trees and Hedges plotted along with Root Protective Zone has been submitted and requires adhering and should form part of any consent. Recommendations for tree work has been detailed and notwithstanding appears sensible, land and the trees are maintained by SDDC which the Council will independently survey.

Recommendation -

- Ensure that all trees are protected during development as detailed within the scaled plan (Drawing 1) of the existing Development.
- Ensure that Heras Fencing with additional ground support are erected along the plotted red line around tree RPAs – Drawing 1
- All barriers should be erected prior to any development activity, including that of demolition and inspected by the Council prior to commencement of any approved work
- Should any excavation work (including lifting of the tarmac or whatever surface) within RPAs of retained trees become necessary, no such work should be allowed without the prior submission and approval of an Arboricultural Method Statement (AMS)
- Hard surfacing partly covers RPAs of the Weeping Ash and Limes facing Midland Road – T1-T5. It should be conditioned that these areas are cleaned and de-compacted, before resurfaced.
- Any footpath beneath the tree canopies would require installation utilising a cellular confinement system, after decompaction of the heavily compacted surface, which may be in the report. It would also require an Arboricultural method Statement and will be, of course, a No-dig operation.
- The Council's Tree Officer or other accredited Officer should be kept fully informed of any matter that arises in relation to the retained trees, pre or during development

National Forest Company - Although the scheme results in no requirement for National Forest planting, if there is opportunity to include trees within the car parking areas, the NFC would encourage this. The NFC will defer to the Council's Tree Officer on the acceptability of the Tree Survey.

Rights of Way - I can confirm that Swadlincote Public Footpath No. 50 runs adjacent to the southern boundary of Sabine's Yard, from Belmont Street to Midland Road, emerging from between nos. 8 and 12 Midland Road.

The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposed works. I should be grateful however if you would advise the applicant as follows:

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

Other comments - One comment from a member of the public was received asking that access to neighbouring buildings remains unobstructed through the construction of the proposal and in the future.

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

The relevant policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), Policy SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), Policy SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage), RTL1 (Retail Hierarchy) and RTL2 (Swadlincote Town Centre Potential Redevelopment Locations).

Relevant National Policies & Guidance:

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

Relevant local guidance:

- South Derbyshire Design Guide (SPD)
- Swadlincote Conservation Area Character Statement 2014

Relevant legislation:

Sections 16(2) 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Planning considerations**

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

- The principle of the development;
- Heritage and archaeology;
- Highway safety;

- Design and amenity;
- Ecology and trees;
- Mining legacy;
- Drainage.

## **Planning assessment**

### The principle of the development

The site lies within areas 1 and 2 of the Swadlincote Town Centre and Potential Redevelopment Locations as set out in Policy RTL2 of the Local Plan Part 2. The Policy states that "The Council will promote the redevelopment of the following sites, for uses that would enhance the viability and vitality of Swadlincote town centre". The proposal seeks to regenerate brownfield sites within the town centre that are currently either derelict or in need of repair. The proposal includes improving the appearance of the former Market Hall by removing the low roof and creating a multi-functional car parking and events space, formalising the car parking areas at Bank House/Bretby View, and regeneration of Sabine's Yard for both a car park and amenity greenspace. It is considered that all elements of this proposal will improve the appearance of the area and therefore improve safety and remove opportunities for crime and anti-social behaviour. The multi-functional events space at the former Market Hall is anticipated to allow the use of the town centre to diversify and support events such as music and food fairs. The supporting text for Policy RTL1 states "there is a need to maintain a core of retail activity in the town centre, but other complementary uses, during the day and evening, can reinforce the town centre's attractiveness to local residents". Paragraph 86 of the NPPF states that "planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should...c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones". It is therefore considered that the proposal to create a multi-functional events space, along with associated car parking especially for evening and weekend users, is in line with both national and local planning policy, in an area identified specifically in the Local Plan.

In addition the creation of greenspace within the urban area is in line with Policy INF7 Green Infrastructure which states that the District Council will seek to conserve, enhance and wherever possible extend green infrastructure in the District by working with partners to ...ii)secure development that maximises the opportunities to conserve, enhance and restore biodiversity and geological diversity and to increase provision of, and access to, green infrastructure". This 'pocket park' will bring green infrastructure to an urban location and be accessible to many in its central location.

Accordingly it is considered that the principle of the proposals is something that can be supported further to the consideration of further details below.

### Heritage

Policy BNE2 Heritage Assets of the Local Plan Part 1 states that "development that affects South Derbyshire's heritage assets will be expected to protect, conserve and enhance the assets and their settings in accordance with national guidance and supplementary planning documents which the authority may produce from time to time".

No objections have been raised in relation to the proposals to regenerate the former Market Hall and Sabine's Yard.

This proposal does however, include the complete removal of both Bank House and Bretby View which are both buildings described as "other buildings which contribute positively to the special architectural character or historic character" of the Conservation Area in the Swadlincote Conservation Area Statement (2014). Paragraph 207 of the NPPF states that the "loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Sites should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole".

The proposal therefore falls to be considered by paragraph 201 of the NPPF which states "where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefit".

Comments have been received from the Council's Conservation Officer which identifies a number of features of Bank House and Bretby View which justify their positive contribution to the Conservation Area of Swadlincote, and that "it would be preferable to maintain, redevelop and repurpose these buildings. Ideally...a structure would be placed at the junction of the road, rather than an open space, as this is the character of the street scene." Their comments do also acknowledge that the site in its current condition has a negative impact upon the town centre, and that, with these properties not being designated heritage assets, not all historic buildings can be saved and repurposed. However, any loss should be mitigated by positive improvements to the key entrance to the Conservation Area thus ensuring substantial public benefit is demonstrated.

The submitted Heritage Statement refers to paragraph 86 of the NPPF which states that local authority planning policies for town centres should, "... promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries ...". It goes on to state that "Policy S7 'Retail' in the Adopted Local Plan Part 1 states that, 'The role of Swadlincote Town Centre will be supported and enhanced where possible'. In this context, the limited heritage value of Bank House is outweighed by the substantial public benefits that will be realised from the redevelopment of the site. The site uniquely has the potential to redress some of the main shortcomings of Swadlincote town centre in adapting to its future role."

It is acknowledged that car parking spaces have recently been lost in the town due to the development of the former depot at Darklands Road, and that while many retailers provide free short stay parking, long stay car parking in the town is more limited. In order to encourage visitors to the town to extend their stay, including for evening events, and to allow for situations where the adjacent former Market Hall car park may be used for other functions, the car parking provision at the Bank House/Bretby View site is considered to have public benefit when the scheme is considered as a whole. The Heritage Statement asserts that there is no market demand for these buildings, due to their need for extensive renovation, thus the reason they have been empty for a considerable time. The benefits of the wider scheme have also been put forward including the creation of the pocket park which will help to address the lack of green space within the town centre, as well as the multi-functional space of the former Market Hall to allow diversification of events in the town centre to occur.

The Conservation Officer acknowledges that "the proposal seeks to regenerate this part of the town centre as a single zone...with a view to create a positive social area that has the ability to deliver a range of events and provide facilities, including parking, for the visitors". It is acknowledged that the loss of historic buildings is regrettable, and that any decision to allow

their total loss is finely balanced. However, given the current condition of the buildings and the problems associated with this, and when considering the scheme as a whole, which will regenerate a wider area, providing sites to be used for the benefit of the wider Swadlincote town, it is considered that the total loss of the buildings is necessary to achieve substantial public benefit. On that basis, the removal of Bank House and Bretby View is therefore able to satisfy paragraph 201 of the NPPF and policies BNE2 and BNE10 of the Local Plan.

Comments have been received from Derbyshire County Council's Archaeologist who stated that there is potential below-ground for archaeological remains associated with the medieval core of Swadlincote. The submitted Heritage Statement does not explore the archaeological dimension of the site and therefore does not meet the requirements of NPPF paragraph 194 which states "where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation". An appropriate archaeology survey should therefore be undertaken in order to ensure that the scheme accords with both the NPPF and policies BNE2 and BNE10 of the Local Plan.

Having regard to the above it is considered that in relation to heritage, the proposals could satisfy policy to enable the development to come forward, however, this is subject to the receipt of an appropriate archaeology survey and the subsequent approval of the DCC Archaeologist as the Statutory Consultee. It is recommended that such survey and its approval are secured by a pre-commencement planning condition to ensure the scheme comes forward in a satisfactory manner and protects, conserves and enhances heritage assets, in accordance with policies BNE2 and BNE10 of the Local Plan.

#### Highway safety

Matters relating to highway safety have been considered by the County Highway Authority who have no objection to the proposal following the receipt of amended plans. It is therefore considered that the proposal achieves safe and convenient access, in accordance with policy INF2 of the Local Plan.

#### Design and amenity

The three elements of the proposed scheme are considered in turn.

*Former Market Hall multi-functional carpark and events space (Lightpark)* – The existing former Market Hall building is of a utilitarian design but it does contain features which contribute positively to the streetscene of Midland Road, i.e. frontage development to Midland Road, arched and relatively ornate entrance gates, as well as attractive blue brick plinth. Most of these features are proposed to be retained, and this will ensure that the built-up frontage is maintained in that area and give a sense of continuity of the built form. The removal of the roof and installation of railings is expected to create a sense of space for the central area and will provide natural light for users of the car park. Improvements to the symmetry of the retained front elevation would be necessary but these could be achieved by retaining the blue wall and plinth on both sides and ensuring that the wall turns the corner at an appropriate height on to the walkway through to the library and bus station. The retention of the roof trusses to install lighting features and create the 'lightpark' is considered to be a quirky design feature, that will help to read the history of the building and will come to life in the evenings and add vibrancy to the scheme. It is important that lighting does not cause a disturbance to nearby residential properties, or impact upon highway safety, and it is considered that this can be controlled by a condition on any permission. Subject to such it is considered that this element of the proposals is in accordance with Policy BNE1 of the Local Plan..

*Car park proposals on Bank House/Bretby View/Sabines Yard* – The retention of the mature trees, particularly on the corner of Midland Road and Civic Way, is welcomed as a result of the formalisation of a car park. The retention of the existing entrance steps on the Midland Road boundary and the associated blue brick wall are welcomed as they are a positive design feature and would retain an element of the heritage of the site. However, the proposed path underneath the trees on the Midland Road frontage would significantly adversely affect the health of those trees and as a result should be omitted from the plans for this reason and since there is a lack of space in this location and it would also mean that there is no need to remove of a section of the existing entrance wall. The two linear car parking spaces on the southern boundary should also be omitted, to ensure an area of landscaping can be incorporated here to soften the relationship with the adjacent building. Subject to such it is considered that this element of the proposals is in accordance with Policy BNE1 of the Local Plan.

*'Pocket Park' greenspace on Sabines Yard* - The creation of greenspace is welcome within a town centre setting, and although the area is relatively small at 0.05ha, it is considered that it would create a positive amenity feature. The original wrought iron gates need to be utilised here, and of the changes to the existing wall either side of those gates will be important to ensure they are of an acceptable height to demarcate the park boundary while ensuring that the pocket park is not too enclosed and is visible when viewed north from Belmont Street.

Comments have also been received from Environmental Health in relation to noise that may arise from future events within the 'lightpark', particularly those involving live or pre-recorded music. Paragraph 185 of the NPPF states that "*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life"*

Planning Practice Guidance contains a noise hierarchy to help recognise when noise is likely to be a concern in the planning process and these figures and restrictions should be incorporated into conditions to ensure that the impacts of the proposed development will be acceptable in planning policy terms.

Comments from Environmental Health have also been received in relation to air quality, and they have requested Electric Vehicle Charge points on a basis of 10% or 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger), in order to comply with sustainability objectives. It is considered that this measure can also be incorporated through conditions.

Having regard to the above it is considered that in relation to design and amenity the proposals could achieve a standard of design that would be positive in its urban setting. The use of conditions are recommended to secure different aspects, ensuring that the scheme comes forward in a satisfactory manner and protects neighbour amenity, in accordance with policies BNE1 and SD1 of the Local Plan.

## Ecology and trees

Comments have been received from Derbyshire Wildlife Trust who raise no objection to the proposal in principle. They recommend condition to ensure that there is no impact on protected species, and that a biodiversity net gain should be demonstrated through the submission of a Biodiversity Enhancement Plan. Paragraph 174 of the NPPF states that "Planning policies and decisions should contribute to and enhance the natural and local environment by... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

The application is supported by an arboricultural report which states that there are a total of seven individual trees and two hedgerows affected by this development, which are proposed to be retained. The trees are not covered by a Tree Protection Order but are within the Swadlincote Conservation Area and are therefore afforded statutory protection under the Town and Country Planning Act 1990, Section 211. Comments have been received from the Council's Tree Officer who is supportive of the proposals subject to conditions to ensure the ongoing protection of the trees. It is considered that the retention of the trees and hedgerow will add an element of maturity to the landscape proposals for the site and the pocket park could be designed so that users benefit from any shade or other amenity that these would provide, whilst new planting can add diversity and biodiversity benefits. The retained trees can be protected on site during construction by suitably worded conditions.

Comments have also been received from The National Forest Company who noted that the site is below the threshold for providing National Forest planning on site but encouraged the inclusion of trees within the car parking areas. It is considered that the retention of the large existing trees on site, and the planting within the pocket park, address these comments.

Accordingly, it is considered that the proposals would be in accordance with policies BNE3 and BNE7 of the Local Plan.

#### Mining legacy

Comments from the Coal Authority have been received, who have no objection in principle to the proposal. However, they have requested that the specific mining features identified within the Mining Investigation Report (2305B, February 2022) should be clearly shown on the proposed layout plan in order to ensure that the applicant has afforded due consideration to the professional opinion provided by their geotechnical consultants. Further conditions have also been suggested to ensure the implementation of the remediation work and mitigations measures as identified in the Mining Investigation Report.

It is considered that the appropriate studies have been undertaken and that the requirements of the Coal Authority can be secured through planning conditions whether pre-commencement or otherwise, to ensure that any matters relating to mining legacy are addressed and the future safety of the site is secured in line with Policy SD4 of the Local Plan.

#### Drainage

Comments from the Lead Local Flood Authority have not yet been received, however, due to the brownfield nature of the sites, that are already laid to hard surfacing, it is not expected that drainage mitigation measures will be such to preclude the proposal from coming forward. Any requirement for planning conditions whether pre-commencement or otherwise, can be attached to any permission to ensure that any matters relating to sustainable drainage are addressed and the future safety of the site is secured in line with Policy SD3 of the Local Plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition.

Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawings ref. SWA-201 P4 Bank House/Sabines Yard Amended Site Plan (dated 10/8/22)', 'SWA-101 P1 Market Hall Site Plan (within Design and Access Statement dated 3/5/22)', 'SWA-105 P1 Lightpark site plan dated 18/5/22' and 'SWA-106 P1 elevations (dated 18/5/22) unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development, including preparatory works, shall commence until a 'archaeological impact assessment' produced by a suitably accredited (ClfA) professional organisation, which is site specific and includes historic map regression, analysis of the GI test pit results, and a site visit in order to zone archaeological potential and depth within the site (establish significance), intersected with a clear digest of the location extent and depth of proposed groundworks in order to understand levels of archaeological impact, has been submitted to and approved in writing by the Local Planning Authority.

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

4. No development shall commence, including preparatory works, until a revised site layout plan has been submitted clearly illustrating the on-site mine entry together with its calculated no build (strand-off) zone and the influencing distance of the two off-site mine entries, has been submitted and approved in writing by the Local Planning Authority.

Reason: To protect the health of the public and the environment from hazards arising from past coal mining which might be brought to light by development of the site.

5. No development shall commence until all remediation works and mitigation measures to address land instability arising from the mine entries present within or within influencing distance of the site, as identified by Ground Investigation Specialist Limited, report author of the Mining Investigation Report (2305B, February 2022) have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. This should include the submission of the approved layout plan which clearly illustrates the exact location and grid co-ordinates of on-site mine entry: 429319-018; its resultant calculated zone of influence; and the 5m buffer from the two mine entries (identified by GIS Ltd) from the edge of both car parks. The remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

6. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of “biodiversity protection zones”.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - 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.
  - 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 order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

7. A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The plan should include a biodiversity metric that clearly shows how a net gain for biodiversity will be achieved. The BEP should include the following:
  - a) Details including location of 2 integrated swift bricks for nesting birds and details of 1 externally mounted bat boxes.
  - b) Details of on-site habitat enhancement or creation including tree and shrub planting, orchard creation and establishment and flowering lawns and/ or species rich grassland etc.
  - c) Details of management and aftercare of habitats and trees/shrubs including aims, prescriptions and work schedules
  - d) A monitoring schedule to assess the success of the enhancement measures
  - e) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met. The BEP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

8. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

9. No removal of hedgerows, trees, shrubs or brambles 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 order to safeguard protected and/or priority species from undue disturbance and impacts.

10. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, and in order to secure an overall biodiversity gain.

11. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial and mitigation measures required to address the risks posed by past coal mining activity.

Reason: To protect the health of the public and the environment from hazards arising from past coal mining which might be brought to light by development of the site.

12. Prior to their implementation a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. Where areas of public open space are included in the proposals, the details shall be supplemented with details of the 'play on the way' style playground, seating, litter and dog waste bins, signage and other ancillary structures (as necessary). Construction detail and plant specification for the stepped banks to the rear of car parking areas 5 and 6 should also be included in the scheme. Any plants which within a period of five years (ten

years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

13. Notwithstanding the submitted details, prior to their provision, further details of the following elements of the scheme, including a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the retention of/alterations to the plinth to the lower parts of the former Market Hall building;
- (b) the removal of the footpath along the Midland Road boundary;
- (c) the removal of the two linear car parking spaces on the southern boundary of the Bank House site, instead to be set to landscaping;
- (d) the alterations/making good to the boundary wall/gates to the proposed car park at Bank House/Bretby View/Sabines Yard to the Civic Way and Midland Street frontages;
- (e) the southern/eastern boundary wall/gates to the proposed 'Pocket Park' greenspace on Sabines Yard; and
- (f) all retaining structures all steps, railings, and means of enclosure throughout the site.

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

Reason: In the interests of visual amenity.

14. A Music Noise Management Plan shall be submitted to and agreed in writing by the Local Planning Authority prior to the first use of the development. The Music Noise Management Plan will detail measures that will be implemented to ensure that any noise associated with the development does not cause detriment to amenity or a nuisance, especially to those living in the vicinity.

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

15. The Music Noise Level (MNL) from any event taking place within the footprint of the former Market Hall shall not exceed 65dBA measured as a 15 minute LAeq and when measured 1m from the façade of a noise sensitive residential property. Reason: To protect the amenities of the surrounding residents and to comply with policies E7 / SD1 / BNE1. No amplified or pre-recorded music shall be played within the development between the hours of 23:00 and 07:00.

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

16. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria: 1 charging point for every 10 new parking spaces (this may be phased with 5% provision initially and a further 5% trigger). To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development in agreement with the local authority. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to the development being brought into use and shall be maintained for the life of the approved development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

Informatives:

- a. The Council's Tree Officer or other accredited Officer should be kept fully informed of any matter that arises in relation to the retained trees, pre or during development.
- b. There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- c. The footpath must remain open, unobstructed and on its legal alignment.
- d. Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to Derbyshire County Council where the path(s) remain unaffected on completion of the development.
- e. There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 5</b>
<b>DATE OF MEETING:</b>	<b>23 AUGUST 2022</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>HEAD OF PLANNING AND STRATEGIC HOUSING</b>	
<b>MEMBERS' CONTACT POINT:</b>	<b>SARAH BEEBY</b> <a href="mailto:Sarah.beeby@southderbyshire.gov.uk">Sarah.beeby@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>DEED OF VARIATION – CHURCH STREET</b>	<b>REF: 9/2013/0946</b>
<b>WARD(S) AFFECTED:</b>	<b>CHURCH GRESLEY</b>	<b>TERMS OF REFERENCE:</b>

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## **1. Recommendations**

- 1.1 That the Committee approves an amendment to the Section 106 Agreement (S106) by means of a Deed of Variation (DoV) to accept the transfer of the SUDs pond to the residents management company.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the DoV.

## **2. Purpose of Report**

- 2.1 This report considers the proposed amendments proposed by the applicant in relation to the ownership and management of the SUDs.

## **3. Background**

- 3.1 Members may recall that the site was granted outline planning permission in March 2015 for 306 dwellings on a site allocated in the 2016 Local Plan. The original report is attached as an appendix.
- 3.2 The current s106 states that the SUDs pond on the site is to be transferred to South Derbyshire District Council (SDDC). The planning approved layout shows that the developer intends to provide one SUDs pond in the eastern corner of the site. In line with the current s106 requirements, the remainder of the public open space (POS) and play areas across the site will be going to a residents management company whereby the residents pay a monthly charge for the upkeep of the POS and play areas. And these areas will be maintained by a managing agent and their appointed contractor and the residents will have control over said agent.

## **4.0 Discussion**

- 4.1 The developer has requested that rather than transfer the SUDs pond to SDDC, they transfer the SUDs pond to the residents management company and that way the residents management company are responsible for maintaining all POS areas within the site. The developer considers that from experience this is more favourable solution for all parties as it means that there is no ambiguity about who is responsible for what and both SDDC and the residents have one company to go to with any queries or suggestions regarding maintenance of all the POS areas and the SUDs pond.
- 4.2 The proposed arrangements are considered to be a pragmatic way of ensuring the most effective management of the SUDs on the site. The original S106 was signed in 2015 when there was not the same interaction with Severn Trent regarding the required standards (including adoption requirements) of SUDs features. The arrangements put forward by the developer allow for the potential betterment of achieving effective management arrangements, including dialogue with Severn Trent during the drafting of the Deed of Variation. This arrangement will assist in ensuring the District Council is not left with management of SUDs that are not up to the required standards of Severn Trent.

## **5.0 Conclusions**

- 5.1 It is considered that the proposed amendments would be a more efficient and effective way to manage the on-site public areas of the site, providing clarity to future residents. It is therefore it is recommended that the Committee approve the proposed SUDs management arrangements and delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

## **Appendix**

### **Reason for committee determination**

The application is for a major development which is not in accord with the Development Plan and has attracted more than two objections.

## **Site Description**

This is a green field site measuring 12.01 hectares which is located to the south and east of the built-up area of Church Gresley. The site lies outside, but abutting, the boundary of the urban area, as shown on Sheet 1 of the Proposals Map for the South Derbyshire Local Plan 1998. There are existing residential properties to the northeast and northwest and Gresley Wood to the south and southwest. There is National Forest land to the east with connecting footpaths to Albert Village and beyond. St George's Primary School is located to the north of the site. A small, triangular-shaped copse is located in the northern-most corner of the site, adjacent to St George's School.

Swadlincote Public Footpath No.1 abuts and then crosses through the northern and eastern boundaries of the site and Swadlincote Footpath No.2 crosses through the entire central section in an east/west direction. Swadlincote Footpath No.3 abuts the southwest corner of the site and Swadlincote Footpath No.4 abuts the southern boundary.

The site comprises predominantly of grassland with a number of trees along the boundaries within boundary hedgerows. There is also an existing hedgerow which bisects the site in a northeast/southwest direction.

## **Proposal**

This is an outline application for residential development of up to 306 dwellings, with all matters, other than access, reserved for future consideration. This equates to a density of 31 dwellings per hectare. An indicative layout has been included within the Design and Access Statement, although this has since been updated. The originally submitted Development Framework drawing indicates that the main vehicular access into the site would be via Rockcliffe Close, with an emergency access proposed via St. George's School. Four pedestrian accesses are proposed; two off Church Street, and two leading off the public footpaths. The emergency access via the school is to be deleted from the scheme at the request of the County Highway Authority and an amended Illustrative Masterplan drawing has been submitted to show this. The amended drawing provides an indicative layout which allows for the route of Public Footpath No.2 to remain on its definitive line and also shows a larger area to be allocated to St. George's School to allow for expansion. A section of Public Footpath No.1 will require to be diverted if the detailed layout remains as per the Indicative Masterplan. The scheme also proposes areas of public open space totalling some 1.56 hectares, the formation of swales and a pond to be located centrally within the site and a balancing pond and pumping station to be located in the south eastern corner of the site.

## **Applicants' supporting information**

The application is supported by several reports all of which are available to view on the Council's website. However, for ease of reference the individual reports and assessments are summarised as follows:

### Design and Access Statement (DAS)

This provides details of the planning policy context, opportunities and constraints, design principles and development, consultation and design and access (layout, scale,

appearance and landscape). It concludes by stating that the proposal would create a high quality residential development in a sustainable and logical location.

### Planning Statement

This provides information with regard to the site and its surroundings, the development proposal, planning policy and the planning considerations. It concludes by stating that:

- The site is allocated for development in the emerging Local Plan;
- The development will contribute towards the Council's housing land supply;
- The site is sustainable and the development is of high quality;
- The development will contribute to a strong, responsive and competitive economy providing significant jobs during the construction phase. The local economy will benefit as a consequence of increased expenditure from the future residents of the development;
- The development will provide a range and mix of house types and tenures and therefore support a strong, vibrant and healthy community;
- The development will protect and enhance the best of the local natural environment;
- The application site relates well to the existing built form and is a logical urban extension. It adjoins residential properties to the north and west and is contained to the south and east by defensible landscape;
- It sensitively addresses site development issues such as site access, sustainable travel, flood risk and drainage and other matters such as ecology and landscape setting;
- Appropriate financial contributions to support local services and infrastructure will be made;
- The provision of land for the expansion of St George's School;
- A financial contribution towards the relocation of Gresley FC;
- The development will qualify for a New Homes Bonus of around £2 million over a six year period which can be used to benefit the local community.

### Landscape and Visual Impact Assessment

This confirms that the site can be seen predominantly from views in the east looking west with views from other sides being limited owing to the topography of the area and surrounding land uses. A substantial row of Willow trees add to the character of the urban and rural edge and define the boundary. These should be retained. The wide mature hedgerows within the site define the plateau. The National Forest character should be protected and enhanced with particular attention paid to the southwest boundary where a hedgerow and trees sits on the edge between recent tree planting and the site. The planting of new trees within the site will further establish the National Forest character. The boundary of the lower section of the site should be strengthened.

### Statement of Community Involvement

A public exhibition was carried out on 7<sup>th</sup> May 2013 and ran from 16:30 to 19:30 with approximately 120 people attending. 47 completed feedback forms, emails and letters were received, with most people raising issues of access, traffic, drainage and school capacity. The report concludes by confirming that the developers have fully embraced the spirit of local consultation and that the issues raised have been considered in the evolution of the scheme and where possible have influenced the proposed development.

## Arboricultural Survey

This identifies the constraints caused by existing trees, such as reduced light levels and the need to avoid damage to tree roots. The Tree Constraints Plan shows that some trees currently at heights of around 25m will need to be reduced before development proceeds. The woodland strip along the western boundary is dominated by pollarded Willows which required crown reduction to prevent collapse of the over-extended branches. The trees are of high landscape value and are considered to be old for the species.

## Flood Risk Assessment

This concludes by stating that provided the sustainable design elements are incorporated into the detailed design phase, the proposed development will comply with the aims of the NPPF, adhere to the Environment Agency's Standing Advice and comply with Derbyshire County Council's requirements.

## Phase 1 Habitat Survey

Whilst Great Crested Newt (GCN) were recorded as being present within the central ditch that runs across the site in 1985, the submitted survey did not record any and it was therefore concluded that the species was no longer present. Therefore, no mitigation measures will be required and the development could proceed without recourse to licensing if approved. The survey recommends careful work practices during the construction phase to reduce the risk of committing an offence under the Wildlife Act.

## Drainage Strategy

Surface Water: This will discharge via various attenuation, treatment and SuDS techniques to an existing ditch course located just beyond the southern site boundary. It is anticipated that the open sections (ditch course, swales and balancing pond) will be adopted by the lead Local Flood Authority and the conventional piped drainage will be adopted by Severn Trent Water.

Foul Water: Discharge from the site will be via a new pumping station located on the eastern boundary of the site and rising main which will have one of two options as an outfall. The outfall for its rising main will be dictated by Severn Trent Water and could be either via a new rising main to connect to the existing rising main within the site, or through the site to a public manhole. Whichever option is chosen the development will be assured of a site-wide foul water drainage solution will be adoptable by Severn Trent Water.

## Geo-Environmental Report

Potential on-site and off-site sources of contamination have been identified and a summary of the potential ground abnormalities and development constraints identified through historical data and ground investigation, including:

- A large clay pit (clay, coal and shale) backfilled during 1970s/1980s
- Colliery spoil (Made Ground)
- Possibility of coal seams or abandoned workings
- Significant difference in levels across the site requiring earthworks, reprofiling or benching

- Marginal heavy metal contamination identified in one location
- Marginal exceedances of nickel, cadmium and selenium but not sufficient to significantly impact on groundwater
- Variable groundwater depths
- Elevated levels of carbon dioxide likely generated from the breakdown of carbonaceous material within the backfilled colliery spoil therefore gas protection measures will be required.

### Transport Assessment and Travel Plan

- The development will be accessed by a safe and efficient vehicular access arrangement;
- The proposed development will be easily accessible on foot with the existing pedestrian footways providing access to a wide range of services including Swadlincote town centre;
- The site is ideally located to encourage journeys by bus via existing bus services;
- Implementation of a Framework Travel Plan
- Proposed development would be able to be accommodated on the local highway network and have minimal impact.

### **Planning History**

None relevant to this application

### **Responses to Consultations**

The County Highway Authority (CHA) has no objections subject to the receipt of an amended plan to show the emergency access to the school deleted from the scheme and an increase in the amount of land to be given to the school for expansion (now received); and subject to conditions, notes and details of S106 funding.

With regard to the submitted Travel Plan DCC considers that the document needs to identify a Travel Plan coordinator to manage travel to and from the site and take responsibility for the Plan. An explicit statement is required regarding a commitment to the reduction of single occupancy vehicle (SOV) journeys to and from the proposed development. An additional section is required to consider actions and activities to support the promotion of public transport. A specific aim needs to be included regarding reduction in SOV journeys. A condition should be attached requiring the submission of a full Travel plan as the current document is only a framework.

Sport England (SE) does not consider the site constitutes a playing field and therefore has considered this as a non-statutory consultation. The development will generate demand for sporting provision and existing provision within the area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore SE considers that new developments should be required to contribute towards meeting the demand they generate through the provision of on-site facilities and/or providing additional capacity off-site. It is understood that several areas of informal open space would be included within the site and there is potential to support the relocation of Gresley Football Club as part of a Section 106 obligation. A further element is for the inclusion of a dedicated area of land to accommodate future expansion of St George's Primary School. SE's Sports Facilities Calculator provides an indication of the

likely demand that will be generated by the development for certain types of facilities. In this case a population of 734 people would generate a demand for just under 8 sq.m. of water space, 0.2 sq.m. of a badminton court and 0.02 sq.m. of an artificial turf pitch at a total capital cost of just under £252,000. A further detailed consideration also needs to be given to the rationale for a possible new football stadium and the potential for such a project if judged to be a suitable replacement for the existing facility. In the absence of clear evidence-based proposals for making provision for additional outdoor and built sports facilities, Sport England objects to the application in its current form.

Severn Trent Water has no objections subject to a condition relating to the submission and approval of a drainage scheme.

The County Education Authority considers that St George's School does not currently meet the DfE guidelines in terms of site area and the offer of more land as proposed on the originally submitted plan would not bring it up to the minimum guideline area for a school of the increased size as a result of the proposed development. However, it now accepts that the additional land shown on the amended plan would satisfy their requirements along with the proposed S106 contributions.

Derbyshire County Council (Strategic Development) has made representations with regards to developer contributions, which are as follows:

- £28.61 per dwelling (£5,893.66) towards the provision of a new Household Waste Recycling Centre in South Derbyshire;
- Access to high speed broadband;
- Protection of existing Public Rights of Way and provision of a new Greenway on site, along with a financial contribution of £14,400 for future maintenance;
- The provision of land with a financial contribution of £695,339.61 to provide an additional 61 primary pupil places at St George's CE Controlled Primary School;
- £790,103.82 towards the provision of an additional 46 secondary school places at The Pingle School;
- £335,302.20 towards the provision of additional 18 post-16 places at The Pingle School; and
- New homes designed to Lifetime Homes standards

Should the developer consider that the viability of the scheme would be adversely affected by the above contributions a Viability Assessment should be provided for review.

Derbyshire County Council (Policy) has assessed the application and considers that on balance the proposals would be broadly in accordance with national policies in the NPPF for sustainable development. It would form a logical extension to the urban area of Church Gresley in an accessible location to a variety of modes of transport. The proposals are broadly in accordance with the saved policies of the adopted Local Plan, particularly Housing Policy 4 which permits new housing development on the edge of the urban area of Church Gresley, although it carries only limited weight. The proposals are also in accordance with the emerging Local Plan. Overall, the proposed development is acceptable subject to the need for affordable housing and additional landscape mitigation measures.

Derbyshire County Council (Drainage) recommends the incorporation of a Sustainable urban Drainage System (SuDS) within the design of the drainage strategy and the

proposed drainage should be considered as early as possible in the planning and design process. Also it should be confirmed prior to commencement of works who the responsible organisation for future SuDS maintenance will be.

The County Archaeologist is of the view that there is no archaeological potential within the site.

Derbyshire Wildlife Trust has no objections subject to conditions in respect of the protection of existing trees and shrubs and no removal of trees, shrubs or scrub to take place between 1<sup>st</sup> March and 31<sup>st</sup> August unless a recent survey has been undertaken to assess the nesting bird activity.

The National Forest Charitable Trust (NFCT) considers that the public footpaths within and bordering the site should be incorporated into the development to enhance access for both existing and new residents. The footpath that crosses the site from Church Street (Railway Side) to the Conkers circuit is well used and will become of greater importance should the development proceed. It should be accommodated within the development on its existing route along a green corridor and housing should provide natural surveillance. The woodlands surrounding the development should be enhanced to allow for increased use by new residents.

The National Forest Company (NFC) considers that sufficient land should be made available for the expansion of the school and the retention of the woodland in the northern corner of the site. None of the existing woodland areas are shown on the submitted Development Framework plan and an amended plan should be submitted to show these areas. It is acknowledged that some hedgerow will be lost as a result of providing the access roads but this should be kept to a minimum. The trees along the western boundary of the site should be protected by Tree Preservation Orders to ensure they are retained by the future occupiers of the dwellings proposed for this part of the site. The National Forest Strategy 2004 – 2014 should be considered as a material planning consideration in accordance with the advice in paragraph 92 of the NPPF. The Strategy sets out that new development should contribute to the creation of the Forest through complying with the Planting Guidelines. 30% of the site area should be planted as woodland and landscaping, which would equate to 3.6ha in this instance. Further information should be sought to demonstrate how woodland planting and landscaping can be accommodated within the development and quantify this in relation to the amount expected through the Planting Guidelines. If this amount of planting cannot be met the shortfall should be addressed by a financial contribution through the S106 agreement. The design of the development should reflect the Forest context and include street trees, tree planting, the use of timber within the materials palette and a natural play approach to the play area. The public footpaths should be better incorporated into the development and more consideration given to ensuring existing footpaths are retained within a safe and pleasant green environment. Houses should face the public footpaths and new routes created within the development to allow residents to walk to the play area and to the attenuation basin. The existing copses should be retained and incorporated within the development.

The Environmental Protection Officer (contaminated land) requires a condition regarding contaminated land.

The Environment Agency requires conditions relating to the submitted Flood Risk Assessment and the Drainage Strategy Report and the submission of a surface water drainage scheme.

Natural England has no objection given that foul flows would discharge outside the River Mease catchment area.

The Coal Authority requests a condition relating to site investigation and remedial works.

The Crime Prevention Officer has made recommendations with regard to the detailed design of the development.

The Peak and Northern Footpaths Society objects on the grounds that no suitable diversion of Public Footpath No.1 has been included in the plans. Also Government Circular 1/09 advises that the alternative alignment of public rights of way should avoid the use of estate roads for that purpose and preference given to the use of made estate paths through landscaped or open space areas away from vehicular traffic. Footpath 2 (and possibly 1, 3 and 4) would be diverted onto estate roads pavements which is not acceptable and would be opposed by the Society. No mention has been made with regard to a financial contribution towards off-site works to ensure the public footpaths can physically cope with the additional pressure that the occupiers of 306 dwellings will place on the footpaths. It should be ascertained that the old hedge running south westerly across the site is not mentioned in an Inclosure Award as damage or lack of maintenance would be illegal.

The local County Council Member has highlighted the impact that the proposed development would have on St George's School, which is over capacity. His view is that the provision of land along with a financial contribution to provide additional capacity would be required. He has also highlighted the need to consider the traffic impact on Church Street and Thorpe Downs Road.

## **Responses to Publicity**

A total of 29 letters and emails have been received which express concern about the proposed development on the following grounds:

- a. Only one access point via Rockcliffe Close;
- b. Increased traffic at an already busy junction and in the vicinity of the school on Church Street;
- c. A second access point should be considered off Church Street;
- d. The number of proposed dwellings is too many;
- e. Incorrect information with regard to the diversion of the footpaths;
- f. School is already oversubscribed – no guarantee that the County Council will expand the school;
- g. Intensification of use proposed for the Teachers' car park access road;
- h. Increase in likelihood of accidents at the Rockcliffe/Thorpe Downs junction, particularly in bad weather;
- i. Incorrect information in the Transport Assessment – further modelling should be carried out to include school drop-off and pick-up times in the peak hours;
- j. No information on how the emergency access via the school will be managed – it will be used as a cut through endangering parents and children;
- k. Further information required on the details of signage and public footpaths – how will footpaths be sustained and managed?;
- l. Cycle routes should be increased by way of S106 contributions;

- m. Exacerbation of flooding problems already experienced at Thorpe Downs Road and Silkstone Close with Severn Trent Water refusing to adopt the pumping station and drains;
- n. The copse at the north eastern corner of the site should be retained as it assists in absorbing water;
- o. Safety on Rockcliffe Close;
- p. Insufficient parking proposed for the development;
- q. Risk of children drowning should be mitigated against;
- r. Existing infrastructure would be unable to cope;
- s. Noise and disturbance caused by the construction of the development;
- t. Devaluation in property prices;
- u. Impact on quality of life currently enjoyed by residents of Rockcliffe Close and general loss of residential amenity;
- v. Thorpe Downs Road is dangerous during snowy and icy weather;
- w. Rockcliffe Close is not suitable as the only access to the development;
- x. Loss of a greenfield site and valuable agricultural land and loss of a much-used amenity area – brownfield sites should be developed first;
- y. Impact on wildlife, such as bats and great crested newts and loss of habitats, such as hedges and trees;
- z. Increased risk of flooding;
- aa. Doubt that the houses are needed as new houses are still being built;
- bb. A new school should be built on the land instead of houses;
- cc. Full details should be submitted together with an EIA;
- dd. The application is premature as the new Local Plan hasn't been through its Public Examination phase;
- ee. Breach of the Human Rights Act;
- ff. Contrary to SDDC's Swadlincote Walking Strategy;
- gg. The Landscape and Visual Impact Appraisal has not considered views of the site from the footpaths;
- hh. Proposal is contrary to Saved policies H4 and Env1;
- ii. Prominent intrusion into the landscape;
- jj. Several inaccuracies in the Transport Assessment;
- kk. Consideration should be given to the provision of a pedestrian crossing;
- ll. Downgrading of local fire station will put community at risk.

A further 19 letters/emails have been received in response to the amended Illustrative Masterplan STMOD-DYS-CG-003 Rev:D, which, for the most part, raise issues and objections similar to the above. However, in addition to these, the following points are made:

- a. The removal of many of the existing hedgerows and trees will impact on nesting birds and winter food – loss of habitat is not acceptable;
- b. Land would be best used to grow crops or graze animals to help with the growth in population;
- c. Little additional investment in leisure facilities, police, healthcare etc;
- d. Church Gresley is a village which should not be destroyed by urban sprawl;
- e. None of the residents' concerns have been addressed within the revised plans;
- f. Location of the balancing pond seems pointless and would be better positioned between Thorpe Downs Road and the new estate;
- g. Removal of trees will increase soil erosion and flooding at the bottom of the estate;
- h. Proposal is contrary to Policy H4 of the adopted Local Plan;

- i. Adequate education provision should be in place before, or at least the same time as, the development is completed;
- j. Parked vehicles on Church Street impede the free flow of traffic resulting in heavy goods vehicles mounting the pavements or causing congestion;
- k. Risk to children entering school at the Church Street access;
- l. The copse at the northern corner of the site should remain;
- m. The site should be split into two with two accesses;
- n. Impact on privacy;
- o. Increased tarmac and concrete will exacerbate flooding;
- p. No detail submitted for the northern part of the site;
- q. The amended plan does not address earlier concerns with regard to conflict with existing local and national planning policies;
- r. The Transport Assessment ignores the amenity aspects such as noise and environmental pollution;
- s. Not possible to properly consider the merits of the proposal without addressing the full implications of a comprehensive access solution and therefore an holistic approach is necessary;

### **Development Plan Policies**

The relevant policies are:

Adopted Local Plan: Housing Policies 4, 8, 9, 11; Environment Policies 1, 9, 10; Transport Policies 6, 7; Recreation & Tourism Policies 4, 8; Community Facilities Policy 1

Emerging Local Plan (pre-submission March 2014) S2, S4, S6, H3, SD1, SD2, SD3, SD4, BNE1, BNE4, INF1, INF2, INF6, INF7, INF8, INF9

### **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 7, 8, 9, 10, 11, 14, 17, 32, 34, 36, 38, 47, 49, 50, 75, 92, 103, 109, 118, 121, 186, 187

National Planning Practice Guidance (NPPG)

### **Planning Considerations**

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

- The principle and general sustainability
- Affordable Housing
- Impact on the character of the area
- Urban design and Open Space
- Ecology
- Highway matters
- Section 106 obligations

#### The principle and general sustainability

The Council has submitted its Local Plan Part 1 to the Secretary of State. The housing strategy within the Plan is evidence-based and identifies the application site as an allocation that would make a strategic contribution towards meeting housing need for the

District. However, the emerging Local Plan Part 1 has yet to be publicly examined and therefore only limited weight can be given though the more advanced the Plan the greater the weight that can be accorded according to the NPPF. Policy H3 of the Emerging Local Plan relates to this site, and considers it to be the principal of three sites (Church Street, Moat Street, and Bridge Street) that, collectively, would provide much needed housing for the District together with a new football ground for Gresley Rovers FC. The commentary to the policy confirms that the site is accessible to a wide range of shops, services and community facilities including St. George's Primary School and that additional land for an extension to the school will be secured through the development of the principal site. The policy text provides for:

A Residential development for around 350 dwellings.

B The Council would require below listed site specifics and accord and with other Local Plan Policies:

- i) Developer contributions for additional land to enable an extension to St George's Primary School;
- ii) Consideration to the provision of a new football ground on the Bridge Street site of an acceptable standard in terms of quality with contributions achieved where viable;
- iii) Consideration given to any undue adverse impact on nearby occupiers which may require mitigation of the visual impact to be put in place;
- iv) Access points to serve the site shall be developed appropriately with the principal site being access off Rockcliffe Close;
- v) The presence of coal mining legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;
- vi) Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks including NCN63 Burton to Leicester route.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *'if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'*.

Paragraph 14 of the NPPF states *'at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking'*. The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:

- *'Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *Specific policies in this NPPF indicate development should be restricted'*.

Paragraph 215 states that due weight should be given to relevant policies in exiting plans according to their degree of consistency with this framework.

In terms of housing supply, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF, including identifying key sites which are crucial to the delivery of the housing strategy over the plan period. In addition, there is a burden on the Local Planning Authority to identify and update annually a supply of specific deliverable site sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. The Council cannot currently demonstrate a five year supply of housing land.

In terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. It has been made clear through appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

The objectively assessed housing needs of the Derby Housing Market Area have been agreed across the three local authorities, with South Derbyshire needing to provide 13,454 dwellings up to the end of the plan period in 2028.

The application site is considered to be in a sustainable location with appropriate services in terms of the presumption in favour of sustainable development and is contained within the most sustainable settlement within the district. It has access to a range of facilities, services and transport options, and in acknowledgement of the contribution that it would make towards meeting an identified strategic housing need, the proposal represents sustainable development in principle. In the context of the 1998 Local Plan that is out of date, in so far as, policies for the supply of new housing are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of policies in the current adopted 1998 Local Plan, the site lies on the fringes of the built-up area of Church Gresley. Policy H4 of the adopted Local Plan supports residential developments within this location provided that the site is substantially surrounded by development and:

- (i) Does not result in a prominent intrusion into the rural landscape outside of the built up area;
- (ii) Does not involved the loss of the best and most versatile agricultural land;
- (iii) Does not constitute ribbon development other than the infilling of a small gap in a substantially built up frontage;
- (iv) Does not place excessive demands on public utility services;

- (v) Does not involve the development of open spaces, gaps and landscaping features that make a valuable contribution to the character or the environmental quality of the area;
- (vi) Is of suitable scale and character; and
- (vii) Does not prejudice the continued viability of adjacent industrial premises or community facilities.

The site is bordered on two sides by existing development and on the remaining two sides by hedgerows and trees. Whilst it cannot be argued that the proposal would not result in some intrusion, the contours of the site are such that the development would slope away from Church Street down towards the eastern boundary. The site does not comprise good agricultural land, being a former opencast coal extraction site which has since been backfilled. The development would not constitute ribbon development and would not involve the development of any landscape features that make a valuable contribution to the area. The proposed density is considered to accord with the existing residential density of Church Gresley and would therefore be of suitable scale and character. It would not prejudice the continued viability of industrial premises or community facilities.

### Affordable Housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire. Church Gresley is one of the areas that make up the urban area of the Swadlincote sub-market area of the District, which also includes Castle Gresley, Midway, Newhall and Woodville.

The housing mix needs to reflect the both the demand for houses registered on District housing waiting list currently and the projected sub-market area future demand. The SHMA recommends an affordable housing mix as follows for South Derbyshire of 10-15% one bedroom; 35-40% two bedroom; 35-40% three bedroom and 10-15% four bedroom properties.

The Council's Housing Strategy Manager has advised that the development should provide 30% affordable housing and the SHMA suggests that a split of 68% rent and 32% intermediate housing would be appropriate for the site. Based on current evidence, in order to deliver the affordable housing need a proportion of affordable housing is sought, underpinned by Local Plan Saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF. In this case, because of viability considerations (see education and Section 106

#### Contributions

assessment below), the provision of 30% affordable housing would have adverse implications for other contributions that are fundamental to the development's overall sustainability.

### Impact on the character of the area

Given the location of the site outside the development boundary and the proximity of public rights of way, there would inevitably be an impact on the character of the area. However, the site does not present the most attractive of settings being previously used for opencast mining, although over time it has taken on a more rural character. There is a clear opportunity to provide a built form that creates a high quality environment incorporating local distinctiveness in accord with paragraph 60 of the NPPF and Local Plan Saved Housing Policy 11. Whilst the detail would be considered at reserved matters stage for each phase of the development, the submitted Masterplan and Design and Access

Statement provide a sound basis for this to come forward, with the development appearing as a logical extension to Church Gresley.

### Urban design and Open Space

The application is in outline only therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless the site presents some key aspects that would form the basis of a good scheme in urban design terms. It is well served by the public transport and the proposed development would include open space facilities on site that would provide facilities for the wider area and therefore help to make it a sustainable development. The Illustrative Masterplan indicates a main spine road running around the development with more minor roads leading off, with a centrally-located pond, swales and landscaped area that would break up the massing of the built form. Notwithstanding the concerns of the reported footpath society, the unchanged route of Public Footpath No.2 would continue to link Church Street to the National Forest planting areas outside.

Issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking would be addressed through reserved matters submissions, although the principle objectives for these can be secured by conditions at this stage.

In view of the urban design and open space matters considered above the proposal would accord with Chapter 8 of the NPPF and Saved Recreation and Tourism Policies 4 and 8 of the Local Plan.

### Ecology

With regard to protected species, it is apparent that whilst Great Crested Newt (GCN) were present in 1985, the submitted survey did not record any and it is concluded therefore that the species is no longer present within the site. Consequently, no mitigation measures will be required and nothing further is required by way of licensing. Although GCN are no longer present a method statement is to be produced to ensure the protection of common amphibians (and potentially grass snakes and slow worms) during site clearance and construction. The method statement would include ecological supervision of vegetation removal and topsoil stripping, and dismantling by hand any potential refugia (areas in which organisms can survive through a period of unfavourable conditions). Any amphibians, reptiles or small mammals disturbed or uncovered would either be caught by hand and relocated to a safe area or left to vacate the construction site as and when. Careful work practices are recommended during the construction phase to reduce the risk of committing an offence under the Wildlife Act and an informative should be attached to this effect.

Derbyshire Wildlife Trust (acting for the Council) has no objections but requires conditions in respect of the protection of existing trees and shrubs and no removal of trees, shrubs or scrub to take place between 1<sup>st</sup> March and 31<sup>st</sup> August unless a recent survey has been undertaken to assess the nesting bird activity.

The views of Natural England are confusing as the site is not within the River Mease SAC catchment area and therefore there is no requirement for a financial contribution towards water quality management. An update to their position will be reported at the meeting.

### Highway matters

Chapter 4 of the NPPF relates to the promotion of sustainable transport and paragraph 38 highlights *'For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties'*.

The originally submitted Development Framework Plan showed an emergency access into to the site via St George's School. This has now been deleted following concerns expressed by the CHA and the amended Illustrative Masterplan now annotates this as being a pedestrian/cycle access point only. There are no objections to a single vehicular access into the site via Rockcliffe Close, as it has been constructed to a standard to take the additional capacity. The proposal is thus considered to be in conformity with Local Plan Saved Transport Policy 6. Whilst the development would have an impact on the highway network and the potential to affect the wider transport infrastructure, the NPPF makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case there is no evidence that the cumulative impact would be so.

The CHA has requested a condition should be attached requiring the submission of a full Travel Plan as the current document is only a framework. This could be requested as part of the Reserved Matters applications for each phase of the development.

### Section 106 obligations

Since submission of the application, detailed and extensive negotiations have been on-going with the applicants. Negotiations have largely been around surplus profit from the site and prioritising the various competing demands for funding infrastructure mitigation. As in so many cases the issue here is with viability. An added complication here is that the site is largely made up of fill material (of indeterminable quality and bearing capacity) which is understood may extend to a depth of c.30 metres. This clearly has implications for the cost of bringing the site forward for residential development. Indeed, through the submission of a viability assessment, it has been demonstrated to the District Valuer (DV) that because of the ground conditions, there is insufficient profit in the development of the site to meet all of the expected obligations.

In such cases financial contributions need to be prioritised which result in some infrastructure being provided at the expense of others. In this case it is clear from discussions with the LEA and local members that the critical priority of the infrastructure is education. To date negotiations have confirmed that extra land as requested by the LEA would be provided along with the financial contribution as set out below which would enable St George's School to undergo an essential improvement programme which simultaneously would enable accommodation of the children generated by the new housing developments in the locality. The list below shows this contribution and the others that the viability assessment shows are affordable. Other contributions requested either fail the CIL Regulations tests or are unaffordable.

- Education: St George's Primary School: £695,339  
Secondary (Pingle School): £790,104  
Post 16 (Pingle School): £335,302
- Recreation/POS: £497,355

- Adoption of SUDs: £80,000
- Waste & recycling: £5,893

The largest contribution (in equivalent cash terms) however would be for affordable housing provision. During the examination of various viability reports by the DV, it was concluded that the scheme should be able to support the above S106 contributions and still enable the provision of upwards of 17.32% of affordable housing depending on the model used. However, the applicants have stated that according to their calculations the scheme can only stand 5%. This diversity of value is fairly typical given that the nature of viability assessment which is far from standardised or rule-bound. Clearly a 5% offer would not be acceptable given the DVs findings. But it remains for the local planning authority to come to a view regarding the offer made and whether it could achieve a better outcome at appeal. After much difficult negotiation, a revised offer of 15% affordable housing along with the rest of the S106 package (as above) has been secured. In the interests of securing the improvements to the local schools and to ensure that a timely start on site is made to assist with meeting the district's housing delivery programme, it is recommended that the offer represents a good compromise and should not be passed up. An alternative more positive result at appeal cannot be guaranteed and the overall package could therefore be jeopardised.

In the background to this is the issue around Policy H3 in the emerging Local Plan and an acknowledgement that the application site is one of three sites cited in the policy in the context of the provision of a strategic site for residential development. As such, the text states: *'...The development of the wider location offers the opportunity to provide for an extension to St. George's Primary School and a replacement football club for Gresley FC on the smaller site (Bridge Street), as they have outgrown their current premises.'* The history of the new football facility is an important consideration here. The impetus to move the club was started in the early 1990s and came from the then Gresley Rover's winning of the league to qualify for promotion to the Football Conference. At the time the existing stadium at the Moat Ground was inadequate to take advantage of the promotion and so the club did not progress. Negotiations with the then landowners sought to progress the development of the land at Thorpe Downs and include the reclamation of the land on Bridge Street adjoining, specifically for a new a new community stadium for the football club. The Thorpe Downs development was completed but the Bridge Street ground stalled though reclamation works were completed and the land remodelled for the footprint of the new stadium.

Since that time no funds have been available to complete the project hence the identification of the opportunity and the citation in the Local Plan. At this stage there is no separate provision available for any contribution towards the new community stadium from the proceeds of the development of this site. However, £319,428 of the Recreation/POS sum is for provision of off-site formal and built recreation facilities. It would be thus consistent with the SPG for this sum to be held in reserve for a contribution towards the new stadium. Any further contribution to the stadium would need to come from the affordable housing allocation. Although the stadium project is not yet in a position to move forward, it is hoped that a fund for its continued construction could be set up from the £319,428 and, subject to member approval, a further £680,572 could be made available from the affordable housing allocation (equivalent to about 5 units). These sums could be held for an agreed period of time (say two years) and in the event that the project had not progressed over that time period, the funds would revert to their roles as originally designated. The sums could only be drawn down for the stadium once the Council was

completely satisfied that the project could proceed without undue risk and that it would result in a genuine community facility.

## Conclusion

The application relates to one of the Council's sites put forward for residential development through the Local Plan Part 1 process, which, together with the Moat Street football ground proposes up to 350 dwellings. The development is likely to be able to contribute to the early delivery of homes, helping the Council to meet its requirement for a five year supply of deliverable housing. By reference to the NPPF's three sustainability dimensions (economic, social and environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to support the vitality and viability of the area. Construction jobs would be created and retail trade in the area is likely to benefit from the influx of new residents. The local schools would benefit by the provision of land for a much needed expansion (primary) as part of a significant contribution to the wider education provision.

The proposed scheme would also have a positive impact on local communities by providing new homes (market and affordable). In terms of healthy communities the Illustrative Masterplan includes a good level of green infrastructure, open space and recreation areas. Pedestrian links would be retained and incorporated into the layout which would assist in supporting active lifestyles and encourage alternatives to the car for accessing local facilities and employment.

The reports accompanying the application explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, arboricultural, flood risk and drainage). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features and wildlife. The scheme also helps to mitigate future climate change through reducing CO2 emissions by the provision of new homes in a highly accessible location and by reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through the provision of a sustainable drainage strategy and green infrastructure.

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 applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the planning assessment of the report and subject to the following conditions: