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Our Ref
Your Ref

Date: 18 July 2022

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 26 July 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 - 145**
- 5** DEED OF VARIATION – LAND AT BOULTON MOOR **146 - 153**

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).

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/1859	1.1	Newhall	Newhall and Stanton	6
DMOT/2021/0754	1.2	Swadlincote	Swadlincote	16
DMPA/2021/1014	1.3	Lullington	Seales	22
DMPA/2021/1475	1.4	Kings Newton	Melbourne	89
DMPA/2021/1808	1.5	Overseal	Seales	100
DMPA/2022/0624	1.6	Egginton	Etwall	108
DMPA/2022/0339	1.7	Hilton	Hilton	114
DMPA/2022/0364	1.8	Melbourne	Melbourne	118
DMPA/2022/0540	1.9	Melbourne	Melbourne	126
DMPA/2022/0836	1.10	Bretby	Repton	134

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2021/1859](#)

Valid date: 14/01/2022

Applicant: Mr. Kang

Agent: N Astle

Proposal: Demolition of existing single storey shop and erection of new 2 storey building to accommodate 2 self contained flats at 160B Parliament Street, Newhall, Swadlincote, DE11 0SG.

Ward: Newhall and Stanton

Reason for committee determination

The application is returned to committee following a deferral at the meeting on 28 June 2022.

Update report

When this item was debated in June, Members raised concerns in relation to the omission of any off-street parking provision within the application site. The application was deferred to allow the opportunity to investigate whether parking spaces for the development could be included within the proposed scheme.

The application is being returned to Planning Committee following consultation with the Local Highways Authority.

There is an existing bus stop and speed hump located in front of the western half of the site. The Highways Authority has advised that the relocation of this would not be supported. Relocation would restrict on-street parking at another location along Parliament Street and therefore would offset any parking provision made on the application site.

Any new vehicular access would therefore need to be on the eastern half of the site, next to the existing access to the neighbouring property at no. 160 Parliament Street. In order for parking on the site to be acceptable, it would be necessary for each space to measure at least 2.4m x 5.5m, with an additional 0.5m on each side where bounded by a wall, fence or hedge, and to demonstrate that visibility splays of 2.4m x 33m could be achieved in both directions. As the front of no. 160 is sited very close to the road it is considered unlikely that this could be achievable.

It should also be noted that moving the building further back within the site (by 5.5m) to provide parking would likely result in unacceptable impacts on the amenity of the existing properties, specifically no. 160 Parliament Street. For context the site is approximately 13.5m deep. The building is approximately 6m deep, with a parking space in front this it would total 11.5m resulting in the building being located 2m from the rear boundary.



Blue hatched area showing approximate location of building set 5.5m back to provide parking.

The Agent has confirmed that it would not be possible to design an amended scheme which would achieve the requirements of the Highways Authority. It is unlikely, given the above dialogue with the Highways Authority, that a safe access could therefore be provided to facilitate off-street parking.

The Committee is asked to resolve that planning permission be granted subject to the conditions listed at the end of the report to Committee on 28th June, attached as an appendix to this report.

Item No. 1.1

APPENDIX

Ref. No. [DMPA/2021/1859](#)

Valid date: 14/01/2022

Applicant: Kang

Agent: N Astle

Proposal: Demolition of existing single storey shop and erection of new 2 storey building to accommodate 2 self contained flats at 160B Parliament Street, Newhall, Swadlincote, DE11 0SG

Ward: Newhall and Stanton

Reason for committee determination

Cllr Sean Bambrick, Ward Member for Newhall & Stanton, has requested that the application is presented to the Planning Committee due to the unusual circumstances of the site.

It is understood that there are concerns in relation to a lack of off street parking for the development.

Site Description

The application refers to the site of an existing, flat roofed single storey building, built for commercial use, in the Newhall area of Swadlincote. The building is currently vacant although has been in previous use as a shop and tattoo parlour. The site lies within a predominantly residential area and there are residential properties lying on either side and to the rear of the application site.

The proposal

Planning permission is sought to replace the existing building on the site with a new 2 storey building which would provide 2 no. two bedroom residential flats. Although some minor alterations have been made to the plans this is largely a renewal of a previous permission granted in 2019.

Applicant's supporting information

The application is supported by the following plans and documents:

Site Location Plan

Block Plan

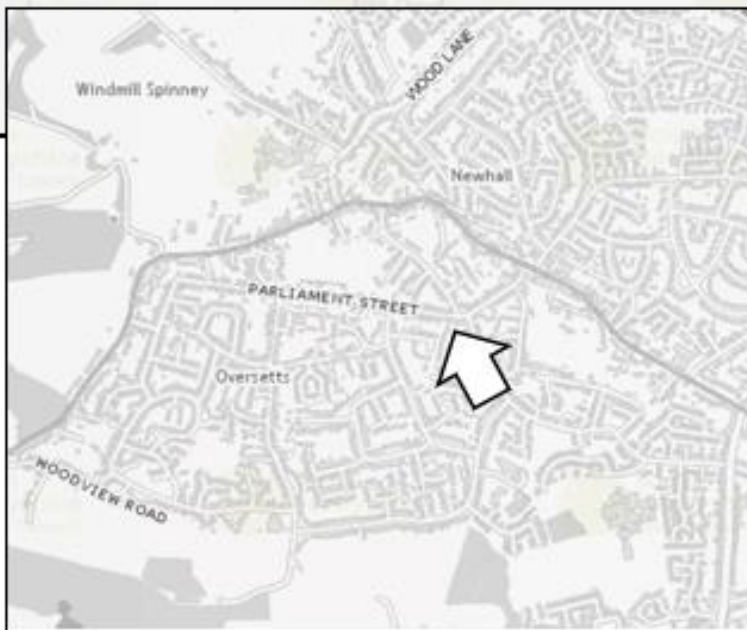
Existing Plans and Elevations

Proposed Plans and Elevations

CON29M Non-Residential Mining Report

Amended proposed plans have been received during the application in response to queries raised in the consultation in relation to the site layout and distance to boundaries. Alterations have also been made to the window layout.

DMPA/2021/1859 – 160B Parliament Street, Newhall, Swadlincote, DE11 0SG



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South Derbyshire District Council, LA 100019461.2020

Relevant planning history

9/2018/1057 – Demolition of existing building with the erection of a replacement building for two flats. Approved 15 February 2019.

9/2016/1223 – The conversion of existing shop into self contained residential flat (Ground Floor) with first floor extension with new pitched roof over to contain another self contained flat (total of two flats). Approved 19 January 2017.

9/2002/0712 – The conversion into self-contained living accommodation of the detached garage and store at 160 Parliament Street Newhall Swadlincote Derbyshire. Approved 16 September 2002.

Responses to consultations and publicity

Cllr Sean Bambrick (Newhall & Stanton Ward) – It is queried whether car parking included in the proposals.

The Coal Authority - No objections to this current proposal, subject to the LPA placing a condition on the decision notice to secure the undertaking of intrusive ground investigations works to confirm the presence or otherwise of shallow coal mine workings / mine entry within the site and to inform the extent of any remedial and / or mitigation measures that may be required to ensure that the redevelopment of this site is safe and stable (NPPF paras. 183 and 184).

Environmental Health - No environmental concerns and therefore no comments to make.

Planning Policy - Local Plan Part 2 Policy RTL1 Part F states: “Loss of retail units in centres will be permitted where: i) The current use can be demonstrated to be no longer viable; and ii) The unit has been sufficiently and actively marketed for a range of retail uses over a 6 month period; and iii) The impacts arising from the resulting use do not cause an adverse effect on amenity, parking needs or highway safety”.

In regard to points (i) and (ii) recent amendments to the Use Classes Order mean that a change of use from retail (Use Class E(a)) to a dwelling (Use Class C3 – up to 1500 sqm) now represents permitted development subject to prior approval. Therefore, although the application is for redevelopment rather than a change of use, it is considered that to request a marketing exercise and evidence concerning viability would not be reasonable in this instance.

County Highways Authority - Bearing in mind the existing use of the site, it is not considered that approval of the proposal would have a negative impact on existing highway conditions.

Public Representations

Three public representations have been received. In summary the following points are made:

- a) Adding more housing without parking spaces will exacerbate parking problems on the street.
- b) Inaccuracies on the plans and application form are highlighted. The plot size has been deliberately misrepresented to give a more favourable view of the remaining “amenity” space at the side of the building. It may also compromise the legal right of way one respondent has through the site. It is also noted that the site can be seen from a public road, contrary to that stated on the application form.

Officer Note – Amended plans were submitted during the application which resolved these errors and discrepancies between the submitted plans.

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), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence) and INF2 (Sustainable Transport)
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and RTL1 (Retail Hierarchy)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of development
- Design, scale & layout of the proposed development
- Residential amenity for the future occupiers of the building and potential impacts on the amenity of existing neighbouring properties.
- Highway safety and parking matters.

Planning assessment

Principle of development

The site lies within the defined urban settlement boundary for Swadlincote, which is the primary area supported for new residential development under the hierarchy set out in policy H1 of LP1. As such the proposal would accord with the aims of sustainable development set out under policy SDT1.

Policy RTL1 of LP2 seeks to protect existing retail units in existing and proposed centres. In this case the application site lies within a predominantly residential area and outside the main commercial area of Newhall, which is located along Main Street and High Street to the north. It is also noted that there is significant planning history of previous approvals on the site for new residential development and there is an existing convenience store close by on Orchard Street which will continue to serve the local community. The Planning Policy team has advised that, in light of the circumstances of the site and the permitted development legislation now in place, the marketing exercises advised under policy RTL1 to justify the change of use are not justified.

It is therefore considered that the proposal is acceptable in principle, subject to meeting the

requirements of the other relevant policies.

Design, scale & layout of the proposed development

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 existing building on the site is a flat roofed, rendered building. It is generally out of keeping with the age and character of the terraced rows of early 19th century housing, which predominantly lie along this section of Parliament Street. It makes no contribution to the character of the street scene or the visual amenity of the area. The replacement building would be built in the same location and have the same footprint of the existing building on the site but in contrast it would be a pitched roof, two storey building reflecting the appearance of the more traditional houses along the street.

The application form indicates that the new building would be rendered with concrete roof tiles. The existing building is also white rendered, as is the neighbouring property to the east, which is also of a similar scale. The remaining street is predominantly red brick, however, given the presence of the neighbouring building these materials are considered acceptable. A condition can be used to ensure that precise details relating to the proposed materials be submitted and agreed. Stone lintels and arched brick headers are indicated on the plans, which reflects the detailing of the older, terraced houses along the road. Overall, the new building should enhance the character and appearance of the area and represent an improvement to the street scene, according with the aims of policy BNE1.

The application form indicates that surface water drainage is to be directed to soakaways, which are a sustainable drainage system and a preferred method under policy SD3 of LP1. The water efficiency standards which new dwellings are expected to meet are detailed within policy SD3 and a condition is added to state that the new flats should be built in line with this.

The pre-commencement condition recommended by the Coal Authority in relation to ground investigations has been agreed with the agent and forms part of the recommendation.

Residential amenity for the future occupiers of the building and potential impacts on the amenity of existing neighbouring properties.

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.

The floor area of the flats meets the national recommended space standards and all habitable rooms have a source of natural light. The two flats will share the existing amenity space to the rear of the building and the existing 1.92 metre gap between the building and the western boundary will be retained. It is indicated that this area will be used for bin storage. Overall, the flats should provide a good standard of amenity for future occupiers.

The new building will be sited in the same location as the existing building, with the front building line level with the neighbouring property to the east. The separation distances between the new building and both neighbouring properties are considered sufficient to mitigate any additional impact on the light or outlook of these properties.

There is one first floor window indicated for the western side elevation, however, this will only serve the enclosed staircase up to the first floor flat and therefore shall present no undue overlooking. The proposed windows on the north elevation face the highway and are approximately 12.5 metres from the existing dwellings lying opposite the site. This is less than the minimum distance guidelines recommended in the Design Guide SPD, however, as the respective properties are separated by a highway the guidance states that these guidelines can be relaxed. Given that there is an existing building, and the separation distance reflects that of other properties running along either side of Parliament Street, it is considered acceptable.

There is not considered to be any detrimental impact on the amenity of adjoining neighbours to the south of the site.

One respondent highlighted an existing right of access along the western side of the building and discrepancies in the plans in relation to width to the boundary. This was clarified during the application and a ramp leading up to the entrance to the first floor flat, which was originally proposed of the side elevation, was relocated to the rear elevation to provide additional space and ensure that access was not unduly restricted.

The proposal is therefore considered to accord with the aims of policies SD1 and BNE1 of the Local Plan in respect of neighbouring amenity.

Highway safety and parking

The Local Ward Member and some respondents have raised concerns that the new residential units will have no dedicated off-road parking. It is acknowledged that many of the properties along this section of Parliament Street have no off-road parking and therefore there is already a high demand for street parking. However, the Highways Authority has not raised an objection, on the basis that the existing retail use would also generate a level of demand for parking and whilst it is understood not to have been in use for a number of years could re-open at any point as such without any planning permission. Given this factor, the previous permission at the site for two flats and the generally sustainable location of the site, the proposal is considered to be acceptable without any dedicated off-road parking spaces.

Conclusion

The proposed application site is considered to be an acceptable location for new residential development and the replacement building on the site should enhance the character and appearance of the street scene. The proposal shall provide a good standard of amenity for future occupiers without compromising the amenity of neighbouring properties. The proposal is therefore deemed to comply with the relevant planning policies and is recommended for approval.

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

It is recommended that the application is approved, subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the Site Location Plan, Block Plan and Existing Plans and Elevations (drawing number NA/MKPSN/1.b) and Proposed Plans and Elevations (drawing number NA/MKPSN/2.h); 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 shall commence on the site until a scheme of intrusive site investigation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full and a report of the findings arising from the intrusive site investigations, along with proposed remedial measures (if any), shall be submitted to and approved in writing by the Local Planning Authority prior to any works of construction commencing. The approved remedial measures shall be implemented prior to first occupation of the building hereby approved.

Reason: To ensure the stability and safety of the development to protect against coal mining legacy.

4. 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.

5. Each flat shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the 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.

6. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 to 18:00 hours Mondays to Fridays, and between 08:00 to 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays (other than emergency work).

Reason: To ensure neighbour amenity is protected.

Informatives:

- a. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

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.

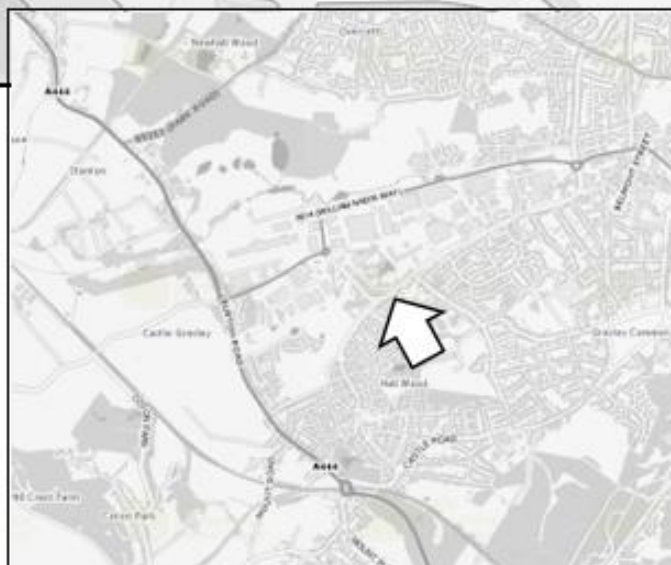
The application site is situated within a mixed use area host to building that are highly varied in terms of their design. Dwellings along Hearthcote Road consist of a mixture of traditional and relatively modern properties, semi-detached and detached properties, two storey properties and bungalows. 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;'

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



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South Derbyshire District Council, LA 100019461.2020

Applicant's supporting information

Submitted with the application is;

- Tree Survey and Protection Plan
- 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. 1.3

Ref. No. [DMPA/2021/1014](#)

Valid date: 22/06/2021

Applicant: Lullington Solar Park Limited **Agent:** Lanpro Services

Proposal: The installation of ground mounted solar photovoltaic panels with associated infrastructure and works, including substations, converters, inverters, access tracks, security fencing, boundary treatment and CCTV at Land north of Lullington, Swadlincote

Ward: Seales

Reason for committee determination

The item is presented to Committee for the following reasons: due to the receipt of in excess of four letters of objection against a major planning application.

Site Description

The site extends to 70.18 hectares across land to the north of Lullington village, in the south west of South Derbyshire District, within the parish of Lullington. It has an irregular shape and largely follows local roads and field boundaries. The site boundary treatment is predominantly well-established hawthorn hedgerow of c. 2m in height.

The site is bound to the east and west by two unnamed roads. The site is split by Lullington Road known locally (Coton Road in the Local Plan) which creates two sites, one to the west which is smaller and roughly a third and the eastern larger site covering two thirds.

The northern site boundary is roughly lateral on plan, following existing east west field boundaries and spans the distance of the unnamed roads bounding the site to the east and west. The southern site boundary varies much more and travels vertically in places on plan, but again following existing field boundaries for the most part as it travels east to west.

The distance between the southern boundary and the rear of properties facing onto Dag Lane is approximately 350m. The area between the southern boundary and Lullington is within the control of the landowner.

The site comprises agricultural fields used to farm grain and as a result are 'cleared'. However, within the site are two ponds, which are assumed to be natural. These are located on the smaller 'western site'. There are also 4 pockets of trees on the site, predominantly located on the larger 'eastern site' but one pocket of woodland is hard up against Lullington Road in the 'western site'.

There are multiple access points from the adjacent roads into the site. There is a Public Right of Way No.1 Lullington (PRoW) crossing the Site north to south, known locally as the 'Coffin Trail' due to its historic use. Immediately south of FP1 is FP2 which is a continuation of FP1 but south into Lullington – for both there is the PRoW on plan line and a slightly different walked line on site.

The surrounding area comprises predominantly agricultural farms and arable land. Immediate development surrounding the site are singular farms and businesses. There are also areas of

**DMPA/2021/1014 - Land north of Lullington,
Swadlincote**



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South Derbyshire District Council, LA 100019401.2020

woodland surrounding the site to the north and northeast/west. Beyond this, to the south is the village of Lullington. To the north of the site, approximately 1km away is the village of Coton in the Elms. Coton Woods, agricultural fields and Pessall Brook separate the Site and Coton in the Elms. Coton in the Elms is a Local Service settlement. To the east travelling towards the A444 and the district centre of Swadlincote, there are more comparatively prominent settlements of Linton and Netherseal.

The Site is within flood zone 1 as identified on the Environment Agency's Flood Risk maps and therefore at least risk to fluvial flooding. The site has been recorded as experiencing pluvial flooding.

Oversailing the site on both the western and eastern elements are pylons which carry high voltage electricity cables and operated by the Western Power as the local district network operator.

The Site does not accommodate any listed buildings. There are a number of listed buildings within 2km of the Site. All of these are Grade II except for the 'Church of All Saints' located within the centre of Lullington which is Grade II* listed which incorporates a spire of special architectural/ historic interest, and which can be seen from the site/adjacent roads. The nearest Conservation Area is centred on the village of Lullington c.350m south of the site, within which the spire is noted for its importance.

The nearest Ancient Scheduled Monument (SAM) is located to the north within Castle Gresley, known as the 'Castle Gresley Motte and Bailey Castle'. This is located approximately 9km north of the Site.

The Site is within the National Forest and 'The National Forest Strategy' covers the period 2014-2029 and seeks to create thousands of hectares of new green infrastructure by requiring a portion of any new development to provide new green infrastructure.

The River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) are approximately 1.78km south of the site. The Development site falls within the Impact Risk Zone (IRZ) for the SSSI.

The proposal

The proposal is for a ground-mounted solar farm including associated infrastructure, comprising inverters, transformers, a substation, and grid connection. The solar farm will have an export capacity of up to 50MW. It is suggested that such would equate to the annual energy consumption of approximately 15,000 homes.

The application seeks temporary planning permission for the solar panels and full planning permission in perpetuity for the substation, the substation compound, and its associated development including CCTV cameras, the control room and access to the site.

The different elements are detailed below:

Solar Panels

The solar photovoltaic (PV) panels make up much of the application. The PV panels will be laid out as standalone panels in arrays of rows running east/west across the Site. The standalone nature enables free draining through perimeter gaps around all panels and dispersed rainwater runoff. The height of the panels will be at a maximum of 3 meters. The fixing of the panel will be to a single structure piled into the ground. The piled nature of connection minimises ground disturbance. The panels will have a tilt angle of 15 degrees. The

total number of panels will be confirmed once the final plan layout is fixed. The panels would have matt dark blue appearance to reduce reflectance.

Buried cables would cross Lullington Road (Coton Road) connecting the solar array east of the road to the substation and grid connection point.

The panels are proposed to be in situ for 40 years after which they will be decommissioned following which will involve the removal of all the materials and equipment that have been on site during the operational phase, which is anticipated to take 1-2 months. Once these works have taken place the site will be restored to its former condition of arable land. The supporting information states such has been agreed legally between the developer and landowner.

Conversion Units ('Inverters')

There are 13 conversion units across the proposed development. These units convert the electricity created (Direct Current (DC)) ready for input into the national power grid (Alternating Current (AC)). There are 13 units to limit possible points of failure in the event of issues and maintain generation.

Substation and Grid Connection

The solar farm would be connected into the grid via the overhead lines on Site, via the substation. This is a main driver in terms of locating solar farms.

The substation will be positioned on hardstanding and enclosed within a security fence. The substation is proposed to be located in the south-west section of the Site and will be more than 300 metres from the nearest house.

The substation will be located within a compound measuring 52 metres long by 25 metres wide. The compound would comprise a 2.44m high galvanised security palisade fence and enclose the substation gear which would extend to approximately 6.29 metres above ground level. A control room would be located just outside the entrance to the compound. The control room would measure 7 metres wide, 5.6 metres deep by 3.85 metres tall.

Boundary Treatment and CCTV Cameras

The boundary of the site will be secured by a 2 metre high fence. This will be constructed using wooden posts and wire mesh, selected to minimise the visual impacts in keeping with the site location. Additional planting will be introduced for screening purposes. CCTV cameras will be erected on poles scattered across the site.

Construction & Decommissioning

A draft Construction Environmental Management Plan is submitted as part of the application. There would be a temporary construction compound adjoining the eastern boundary of the Site and traffic would be routed eastwards from the Site, avoiding the village of Lullington. All construction vehicles will be able to enter and exit the Site in forward gear via dedicated turning and parking areas provided within the Site. This access will then serve as an operational access for maintenance vehicles at the end of the construction phase.

At the end of the 40-year period, the structures, including ancillary equipment and cabling, would be dismantled, and removed from the Site. It is anticipated that materials would be reused or taken to an appropriate location for recycling or disposal.

The Substation which as indicated on the site layout is split into the DNO compound and the Customer compound. The DNO's part of the substation is a permanent planning application as

this is a requirement of Western Power in their Grid agreement with the land owner. The DNO compound is the only permanent piece of infrastructure within the application. Once the DNO compound is built and connected it will be adopted by Western Power and become part of their network therefore supporting the wider grid.

When the solar farm and Customer compound are decommissioned and removed the DNO compound will continue to be owned, operated and maintained by Western Power.

As set out, the primary access to the site will be from the eastern boundary and there will be a crossing point via 2 existing field accesses to the site which the applicant has confirmed will be improved to provide adequate geometry and visibility facilitating safe two-way access for the largest vehicles. There will be no long stay parking provided as the proposal will be unmanned during operation.

The drainage strategy is to maintain infiltration as existing but supported by a SuDs system of swales to the east and north based on preserved land levels. There is no proposed foul drainage or trade effluent.

Applicant's supporting information

The application has been supported by a range of documents set out and summarised below:

Application form and certificates

Plans, Drawings and Statements

Site Location Plan - Plan Ref 1 June 2021

Proposed Site Layout Plan – Plan Ref 2 V3 June 2022

Proposed Access Plans;

- Swepth Path Plan – Eastern Access 21053 C-600 Rev.P03 December 2021
- *Visibility Splay Plan – Eastern Access Plan 21/11/2021* December 2021
- Swepth Path Plan – Western Access 21053 C-601 Rev.P03 December 2021
- *Visibility Splay - Western Access Plan 02/12/2021* December 2021

Proposed technical drawings:

- Lullington CCTV Pole Details Plan Ref 5 June 2021
- Lullington Conversion Unit Details Plan Ref 6 June 2021
- Lullington Fence Details Plan Ref 8 June 2021
- Lullington Mounting Structure Details Plan Ref 5 June 2021
- Lullington Substation and Control Room Details Plan Ref 9 June 2021

The drawings set out the application site boundary, layout with location of PV panels, conversion units, substation – Customer compound, Distribution Network Operator (DNO) Compound, Control Room, Access Track, drainage infrastructure,

Planning, Design and Access Statement (Parts 1-3)

The document sets out the proposed development sought, site location, context, planning history, Local Plan and wider material documents. The statement sets out how the site has been selected for its lack of physical, historical and environmental constraints, and its topography, which allow for effective and sensitive landscape screening of the Development within close proximity to the Site, and within the wider landscape.

It assesses the proposals against the Local Plan and material considerations. It concludes that the principle of a solar farm is supported by national and local planning policies; and this

development would contribute towards the targets set for the UK's greenhouse gas emission reduction and increasing the country's energy supply from renewable sources. This is a significant benefit of the scheme. Mitigation in the form of existing, reinforced and new landscape planting, screens potential views of the Development from historic assets within the surrounding area.

It concludes that the development will provide gains in biodiversity, deliver significant woodland planting, would not lead to unacceptable flood risk; existing and new access points can be utilised to provide safe highway access for the construction, operation and decommissioning of the development and that construction and decommissioning can be suitably managed.

Site Selection Assessment June 2021

The document set out the selection process that the applicant has gone through to choose a suitable application site. The selection process evaluated potential sites located on previously developed/non-agricultural land and lower grade agricultural land (i.e. 100% grade 3b, 4 or 5) that is not of high environmental value. The document sets out that such an assessment is required by a ministerial statement for large scale solar farms, but that this isn't required in the Local Plan. It sets out that government guidance highlights the competing demands on land subject to solar farms. There is no guidance for the methodology of such but regard to criteria set out in PPG paragraph ID 5-013 which include:

- Identification of the study area;
- Assessing that the use of agricultural land is necessary;
- Assessing that there is no poorer quality land available; and
- Assessing that the proposal allows for continued agricultural use where applicable and/or encourage biodiversity improvements around the arrays.

The document sets out the site study area, which is influenced by various considerations such as proximity to grid connection etc. access to light levels, quality of agricultural land etc. proximity to sensitive areas (as per EIA Legislation) and planning policy constraints.

The document concludes that available brownfield sites and previously developed land within South Derbyshire, Lichfield and East Staffordshire LPA boundaries were not suitable. There are no significant areas of Grade 4 land and no Grade 5 sites.

The document is supported by an Agricultural Land Quality Survey has been completed in support of this planning application as a separate document. The survey shows that the site comprises mostly classification subgrade 3b (predominantly in the west). Less than half the site comprises grade 2 or subgrade 3a land and is therefore considered to be appropriately situated to assist with the planning objective of maintaining a supply of agricultural land whilst promoting renewable energy projects.

Geo-physical Survey December 2020

The document sets out that there was a geophysical survey undertaken which consisted of a magnetic survey, which is the standard primary method for such in the UK. It was undertaken in November 2020. The objective of the survey was to understand the subsurface archaeological potential of the survey area.

The report outlines agricultural features including ridge and furrow cultivation, a former mapped field boundary, modern ploughing and drains have been identified. Two mapped former ponds have also been identified within the survey area. Some anomalies classified as 'Undetermined' were identified within the survey area and while archaeological interpretations

for these cannot be excluded, no anomalies suggestive of significant archaeological activity have been identified. The impact of modern activity on the site is limited to magnetic interference around field perimeters and that caused by pylons.

Desk Based Archaeology Report March 2021

The report sets out how the assessment addresses the information requirements set out in the National Planning Policy Framework (NPPF) and provides the proportionate response sought by the NPPF.

The report outlines that there are no designated heritage assets of archaeological interest in the study site and that any future proposed development will have no impact upon any designated heritage assets of archaeological interest in the surrounding area.

It notes that there are three non-designated heritage assets recorded within the study site, all of which relate to Portable Antiquity Scheme (PAS) find spots; one of a post-medieval strap fitting (446688) and postmedieval coins (409268 & 398651).

Overall it concludes that there is low potential for archaeological remains dating to all periods. If archaeological remains were identified within the study site they are likely to be of no greater than low/local significance. There is no evidence to suggest that the study site contains, or has the potential to contain, archaeological remains of sufficient importance to preclude or constrain development.

Statement of Community Involvement June 2021

The document sets that the proposed development has been subject to an extensive and iterative process of pre-application engagement with Officers and a public and political consultation exercise. The consultation process has informed the proposals through an iterative process of comment and design review.

It claims there is local support for the solar farm but there are concerns over the potential environmental impacts of development, which have informed amendments.

Heritage Statement June 2021

The document sets out the various heritage assets – designated and non-designated – affected by the proposals, their significance and contribution made to their significance by their setting inline with the NPPF.

It concludes that no asset would be directly affected physically by the proposed development, and that only three designated assets have any potential for the contribution of setting to their significance to be affected. These are Lullington village conservation area, the Church of All Saints, and Lady Leys Farmhouse. It has been concluded that there will be negligible to no appreciable harm to the contribution of setting to the significance of all three.

One building of local interest has been identified that will experience a change to the construction of setting to its significance. This is Grafton House an unlisted building located on the northern side of the site. This is likely to experience a low (to medium) level of effect on the contribution of setting to its significance resulting in a negligible to slight level of harm to the contribution of setting to its significance.

The document argues the landscaping proposals introduced as part of the development will minimise, if not completely eradicate the effect of the development upon the historic built environment.

It concludes the proposed development is believed to achieve a balance between delivering strategic green energy production whilst also ensuring that heritage assets, and the key heritage values that contribute to their significance are retained largely unharmed. Where a level of harm is unavoidable, as in the case of Grafton House, or views from the footpath where it crosses the study site, the level of harm is extremely limited resulting in a negligible impact.

Soil Management Strategy September/June 2021

The document seeks to demonstrate how any soils would be managed and preserved so that they can be reinstated when the site is decommissioned; and to ensure and describe why there would be no impact on the River Mease Special Area of Conservation (SAC).

The document outlines the application site is around 1.8km from the River Mease SAC, although the site is within the identified catchment area for the river. A number of tributaries draining to the Mease including Pessall Brook and a further unnamed watercourse are located within or close to the site.

It refers to the Agricultural Land Quality Survey which has been completed in support of this planning application as a separate document. The survey showed that the site comprises mostly classification subgrade 3b (predominantly in the west). Less than half the site comprises grade 2 or subgrade 3a land.

The document sets out the construction process in terms of its impact on soil, outlining a negligible quantity of surplus soil is anticipated to be generated from the preparatory earthworks required at the site. It is considered that these soils could be managed and preserved on site through spreading them thinly across the areas of the site, close to where they are excavated.

The document concludes that as the soils would be spread evenly and very thinly, close to where they are sourced, it is considered that the moved soils would have a negligible impact on surface and ground water flows and would therefore have no impact on the River Mease SAC. Details of the drainage swales are provided in Flood Risk Assessment and Drainage Strategy and have been designed to avoid any impact on the SAC.

Planning Design and Access Addendum May 2022

The document is an addendum to the previous Planning Design and Access Statement submitted and seeks to set out further justification and responses to consultation comments made since the June 2021 submission.

The document focusses on Energy Need; Energy Policy; Grid Connection

Traffic & Access

ATC Data – December 2021

This document sets out the Actual Traffic Counts of movements (north and south bound) utilising the surrounding roads on 20 March 2021.

Visual & Landscaping

Landscape and Visual Impact Assessment inc. Appendixes June 2021
Landscape Strategy Plan;

Draft Outline Landscape Management Plan May 2021

The draft Outline Landscape Management Plan sets out how the existing and proposed trees and hedgerows, and new swales, grassland and wildflower areas will be managed and maintained to ensure screening, biodiversity and ecological benefits are realised.

Biodiversity and Ecology

Agricultural Quality – Land Grading Report November 2020

The survey showed that the site comprises mostly classification subgrade 3b (predominantly in the west). Less than half the site comprises grade 2 or subgrade 3a land.

A range of ecological surveys requested by Derbyshire Wildlife Trust:

Badger Survey Report (Confidential) November 2020

Bat Activity Survey November 2020

Bat Tree Survey 784-B023978 V1 July 2021

Great Crested Newt Survey Report June 2021

Breed Bird Survey Report July 2021

Skylark Plot Plan

Ecological Appraisal June 2021

The appraisal sets out the results of various desk studies, habitat surveys including walkovers, assessment of ecological receptors and further surveys, assessment of impacts and mitigation design in response to the phase 1 and additional work.

The document identifies that the site is within the IRZ of the River Mease Site of Special Scientific Interest (SSSI) which is located 1.78km to the south. The River Mease is also an Special Area of Conservation and is the nearest European designated site to the proposal. The development proposals meet the criteria for which Natural England should be consulted over the potential for adverse effect. There are 12 locally designated Local Wildlife Sites (LWS) within 2km of the site.

In terms of habitats the site is comprised of largely arable / improved grassland fields and associated hedgerows. Other habitats included scattered trees, poor semi improved grassland, scrub, tall ruderal herbs, semi broad leaved woodland and standing water.

The document outlines that many of the hedgerows on site may qualify as 'important' under The Hedgerows Regulations 1997.

Tree Survey June 2021

This document considered the trees and hedgerows on site in accordance with best practice. It identifies impacts – which would be limited to two individual trees and small sections of hedgerow to facilitate the access and development. It sets out that the proposed development can incorporate important or significant trees and hedges sustainably, where losses are unavoidable the proposal will enhance the local landscape through the delivery of new trees and hedges and therefore is sustainable

Biodiversity Net Gain Assessment & Biodiversity Net Gain Metric 784/B023978 March 2021

A Biodiversity Net Gain Assessment using the recognised Defra 3.0 metric outlining that the proposed solar farm development will result in a measurable overall net gain in biodiversity amounting to +269.69% habitat units and +46.98% hedgerow units.

Construction

Draft Construction Environment Management Plan October 2021

The draft CEMP sets out a consideration of the proposed development and how such can be supported by a range of indicative measures to control nuisance arising from the construction stage. It proposes an indicative routing for construction traffic which is eastwards towards the A444 away from Lullington and surrounding villages. It proposes a range of recommendations which can be conditioned.

The draft CEMP follows the applicants HRA recommendations to mitigate the potential for significant effects on the River Mease SSSI / SAC.

Flooding and Drainage

Flood Risk Assessment and Drainage Strategy June 2021

The document sets out that the site is within Flood Zone 1. The NPPF seeks to steer new development towards Flood Zone 1. The FRA does highlight small isolated areas of at risk of medium and high risk of surface water flooding. The solar panels are supported on posts that elevate the panels above ground level and, consequently, the development is not affected by this isolated 'medium' and 'high' flood risk. Neither will the development increase the risk of flooding, both on, or off the site. There will be no increase in impermeable area, thus the proposals will not increase flood risk on or off the site.

Given the proximity to the River Mease SAC, the risk of sediment migration off-site will be mitigated by the introduction of the interception swales along the western and northern boundaries. The proposed locations of the swales coincide with the existing run-off flow paths prior to discharge to the local watercourses

Greenfield Runoff Data November 2021

This documents sets out the data to inform the Flood Risk Assessment.

Technical Assessments

Glint and Glare Assessment June 2021

The document assesses the possible effects of glint and glare from the proposals. The document identifies dwellings and roads as possible receptors of glare. It defines Glint – a momentary flash of bright light typically received by moving receptors or from moving reflectors; and, Glare – a continuous source of bright light typically received by static receptors or from large reflective surfaces. The term 'solar reflection' is used in the report to refer to both reflection types i.e. glint and glare. There is no process for determining and contextualising the effects of glint and glare set out in policy.

The analysis has considered dwellings that:

- Are within one kilometre of the proposed development;
- Are located south of the most northern panel; and
- Have a potential view of the panels.

In total, 24 dwelling receptors points have been identified for the assessment. Results of the analysis have shown that reflections from the proposed development are geometrically possible towards 21 out of 24 identified dwelling receptors. One of these dwellings, where the solar reflections are expected to be experienced for longer than 3 months per year but less than 1 hour per day was considered to be a moderate impact. However, no mitigation is recommended in this case because:

- Only a small amount of the reflective area will concurrently be unscreened and within 1km of the assessed dwelling, this will reduce significantly the duration of reflection;
- Solar reflection can only occur when the sky is clear;
- Solar reflections and sunlight will generate from roughly the same position in space and

sunlight is a much brighter source of light;

- Only one window located at the first floor is present on the wall facing the proposed development.

The analysis has considered through-roads that:

- Are within one kilometre of the proposed development;
- Are located south of the most northern panel; and
- Have a potential view of the panels

Regarding roads, where impacts were considered to arise, no mitigation is recommended in this case because:

- Most vehicles using this road will not be HGVs and will therefore not be affected.
- Only a small amount of the reflective area will concurrently be unscreened and within 1km from the road user;
- Solar reflection can only occur when the sky is clear (at the time when reflection is predicted);
- Solar reflections and sunlight will generate from approximately the same position in space and sunlight is a much more significant source of light;
- The developer has proposed some screening on the site boundary which will further reduce the visibility of the reflective area.

Noise Assessment April 2021

Sets out the baseline noise levels for the site area and anticipated levels of noise from the operation of the development. The document sets out Noise mitigation measures in section 5.1 (Acoustic Barriers) which would manage the noise to nearby sensitive receptors.

Other

Bee keeping Letter from Temple Bees 17th June 2021

Letter sets out the credentials of Temple Bees in beekeeping, that the site is suitable for hives Temple Bees would provide and maintain bee hives c. 6- 10 initially with the possibility of local participation in the management of the hives.

Relevant planning history

DMOT/2022/0215 - Screening request under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for a proposed development of a ground mounted solar farm and associated infrastructure - EIA not required – March 2022

DMOT/2020/1374 - Screening request under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 for a proposed development of a ground mounted solar farm and associated infrastructure - EIA not required – December 2020

Responses to consultations and publicity

The application was publicised via two rounds of consultation – the first running in August 2021 and the second in May/June 2022. During both periods letters of notification were sent to neighbours and the application was publicised via a number of site notices around the site and within a local paper.

Both periods allowed 21 days for comment, and in addition all comments to date of writing have been considered within the report.

East Midlands Airport – No objection

No impact to safeguarding of aerodrome

Environmental Health – No objection subject to conditions

Key potential environment impacts of the development are:

- potential exposure of existing sensitive receptors to new sources of dust, noise and disturbance during construction and noise during operation
- Noise mitigation measures in section 5.1 (Acoustic Barriers) of the Tetra Tech Noise Assessment (dated April 2021) shall be installed
- Sections 3, 7 and 8 of the Construction Environmental Management Plan (working hours, dust and noise) shall be implemented for the duration of the construction phase.

Force designing out crime officer – No objection

Wider comments that Site's security could be improved to minimise risk of panel theft experienced by industry

- Applicant outlines site security is inline with insurers requirements
- Recommendation to extend the CCTV PIDS is needed but risk is with applicant

Natural England (NE) – No objection subject to conditions securing appropriate mitigation

We consider that without appropriate mitigation the application would:

- Have an adverse effect on the integrity of the River Mease Special Area of Conservation
- Damage or destroy the interest features for which the River Mease Site of Special Scientific Interest has been notified.

As part of the Habitats Regulations Assessment (HRA), the Local Planning Authority (LPA) should ensure that there will be no harmful discharges of foul or surface water from the application site into the River Mease or its tributaries.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

- **SuDs**

SuDS should be designed and installed in accordance with the requirements in the CIRIA SuDS Manual (C753).

- **Construction Method Statement**

An updated Construction Method Statement explaining the measures in place to protect the River Mease and its tributaries from any harmful discharges during construction should be submitted and approved by the LPA before any work takes place.

Overseal Parish Council – Objection

Serious concerns about large vehicle movements in connection with building the solar farm, coming from the A444 to the site. Neither Lullington Road nor Valley Road are suitable for articulated vehicles.

Suggestion that vehicle movements in connection with the development should be via No Mans Heath and Clifton Campville instead.

Lullington Parish – Objection

90% majority of households on electoral roll questioned by Parish are against the development.

Submission of application prior to holiday period when Parish does not meet is cynical.

Local objection to proposal was made clear to applicants during consultation and trivial amendments have suggested a contemptuous disregard for the fundamental nature of local objections.

Applicant's method of consultation failed to recognise the elderly demographic of Lullington village and wider area and patchy internet connection

The applicant is the wider landlord for a number of houses and local farms meaning many residents have felt unable to respond publicly to these proposals as a result of anxiety over ongoing tenancies.

Further inadequacies in applicant's consultation with regards to missing out houses and false claims concerns have been addressed

Several directly affected residents have received no notification of the application having been validated and posted to the planning portal.

Inadequacies in missing/lack of site notices advertising the application

- **Principal issues with respect to SDDC policy S1**

The very substantial impacts of the proposed scheme on the landscape have not been mitigated within the proposal, and are indeed incapable of satisfactory mitigation given the character of the landscape in question contrary to policy SD1.

The massive scale and industrial nature of this proposal (which for most of each year will not be effectively screened by vegetation) is completely inappropriate in such close proximity to a conservation area rich in interesting, historical and listed buildings.

Without the context of an adopted strategic plan for zero carbon initiatives, we would challenge the contention expressed by the applicant that the use of this productive land for the proposed scheme can be described as 'necessary'.

It is feared that the changed designation from agricultural to solar would become a springboard for subsequent 'brownfield' development.

- **Impact on Landscape Character**

The landscape retains historical character from the last century, with ancient boundaries. The National Landscape Character Assessment, NCA 72: Mease/Sence Lowlands, makes a comprehensive case for why this area is so unsuitable for large scale solar development, and why therefore this application should be denied. NCA 72 identifies strategic environmental opportunities to: "Protect and appropriately manage the historic character, settlement pattern and features of this landscape..." (SEO3); and "Protect the overall strong, rural, open and tranquil character of this well ordered lowland agricultural landscape, increasing the opportunity to encourage sustainable food production"(SEO4). The Mease/Sence NCA captures the key characteristics of the "gently rolling, distinctly open and predominantly arable lowland" landscape around Lullington. It notes the "extensive areas of open arable cultivation" divided by "low hedges with scattered hedgerow trees". National planning guidance ("NPPG"): Renewable and low carbon energy, states: "... great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting". It is clear that proposed mitigation, aimed at obscuring the 3 metre high solar panels with 4 metre high hedging and bands of tree planting, will in reality only further destroy the character of the area.

- **Effects on the historic environment and cultural heritage**

There are a Grade II listed Church and Village Hall, and elsewhere in the village there are at least twenty other historically and architecturally interesting properties. It is surrounded by history and by beautiful, unspoilt countryside.

Lullington sits in a conservation area designated in 1997 and 2011. The 'Lullington Conservation Area Character Statement' referred to in the SDDC Local Plan, records the special historic and archaeological interest that: "... makes the character and appearance of Lullington worthy of protection". Among the distinctive characteristics it identifies are the long

views from neighbouring villages and the narrow winding lanes with occasional glimpses of the church spire.

The Lullington Character Statement draws particular attention to the approach from Coton: "...to the north of Lullington, the spire of Lullington church, locally known as 'Lullington Spud', can be seen for almost half a mile rising above a densely planted, dark understorey of mature deciduous and coniferous trees that follow the ridge within the village. The road is wide with a broad grassy verge and native hedgerows lining the road. Mature copses, planted as game cover, are interspersed with fields along the northern edge ..."

The application sits just outside the boundaries of the conservation area and would completely dwarf the scale of the village. The vistas between Little Liverpool and Lullington, and Coton and Lullington would be a sea of ugly panels, visible in autumn/winter and in the spring/summer hidden by excessive and uncharacteristic high hedges and by tree belts destroying the essential character of the landscape.

- **Impact on local amenity**

Proposed development would lead to a loss of tranquillity and to the destruction of a sensitive and historic rural landscape. Lullington is a popular village with cyclists and walkers (in particular on the historically significant "Coffin Trail"), and attracts many visitors to the Cricket Club, to the Colville Arms and to its popular Annual Open Gardens and Classic Car event. The proposed development would detract from the village and its setting and would represent a loss of amenity to both local and wider communities.

The 'Coffin trail', also known as 'Procession Way', is an historically significant right of way. Prior to the building of St Mary's Church in Coton in the Elms (in 1846), the dead of Coton were carried along this ancient footpath to be buried in Lullington's All Saints Church. In the present it is a popular walk for residents and visitors and forms part of the National Forest's 'Best Kept Villages' walks.

The proposal involves screening the solar panels from view with hedging which is to be left to grow to a height of 4 metres. Views from higher up the trail would eventually be obliterated in the summer months. In the years before the hedges have grown sufficiently, and thereafter in the winter months when the hedges are not in leaf, views would be industrial; an ugly sea of glass and metal frameworks. Approaching the development from the direction of Lullington, the panels being oriented to face south, it is highly likely walkers will be subject to significant glare from the panels. For a portion of its length as it passes between the arrays, walkers would effectively be walking through a 'tunnel' with none of the current gently sloping views.

- **Community**

In the context of both cultural heritage and amenity we would make a further observation: Lullington as a heritage village is more than just its pretty historical buildings. It is a community which continues to be built on its agricultural heritage; continuity which would be threatened by the inevitable removal of land from some tenanted farms should this application succeed.

Lullington's character and the amenity enjoyed by residents and visitors does not exist by accident. It is the result of considerable voluntary effort to maintain its Church, its village hall and the surrounding lanes and paths. The village show attracts several hundred visitors each year and is entirely organised by villagers. Volunteers maintain a constant effort to litter pick throughout the village and its surrounding landscape. Volunteers also maintain the public toilet facilities made available at the village hall for visitors. It is a village community that still looks after its elderly and vulnerable members and actively welcomes visitors and new residents.

Many residents feel this application is attacking the very heart of the village and it has caused great upset. It is of concern that the overwhelming scale and nature of the proposed development will directly impact on the mental well-being of the residents and will undermine

the sense of community that underpins the amenity of the village to the local and wider population.

The use of agricultural land Paragraph: 013 of the National Planning Practice Guidance (NPPG): 'Renewable and low carbon energy' ("the NPPG") makes reference to: "... encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land...". Contrary to this guidance the land proposed to be utilised within this application is productive agricultural land.

The soil survey submitted as part of the application confirms that around 50% of the land proposed to be covered by solar panels is good quality agricultural land (grades 2 and 3a). Recently, it has all been productive; growing barley, wheat, rapeseed and crisping potatoes. In addition, maize and grass have been grown for use in the generation of electricity through a nearby AD (bio-digester) plant. If the objective of the landowners is to contribute to the green economy, then arguably this could be achieved more simply and more in sympathy with the landscape and environment by the landlords encouraging tenant farmers to join environmental schemes to increase bio-diversity and to increase tree and hedge planting. The Estate could also add solar and ground source heat pumps to its farms and farm buildings.

It is particularly concerning that in the context of this proposal there is no benefit at all to the tenant farmers who currently work the land. On the contrary, it is of further concern that the loss of productive acreage could threaten the viability of some of the tenanted farms who may be under pressure from the land agents not to object. Turning good agricultural land into a solar farm denies employment on the land for the local community. Changing land use from agricultural to solar is likely to affect break clauses within current tenancy agreements.

None of the benefits from this development will accrue to the local area or to the District.

Financial beneficiaries will be the developers, the energy company and the landowners; none of whom have links to the area. There is also concern among villagers that were this application to be successful the applicant would seek further phases of development.

Strategic context of this application The NPPG Paragraph: 003 states that "... all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities".

It is noteworthy that the Government's most recent policy (Updated November 2020), The Ten Point Plan for a Green Industrial Revolution (publishing.service.gov.uk), does not make any reference to solar power. Its absence from a policy intended to set the foundations for tackling climate change would seem to indicate an acceptance that solar is not a favoured green technology. Its exclusion perhaps acknowledges a number of known difficulties with the technology: Problems with the manufacture and ultimate 'landfill' of panels as a result of their use of heavy metals; the relative inefficiency of the panels in the northern hemisphere and relatively rapid degradation of their performance; and widespread objections as a result of the visual blight they create.

We believe this application should be rejected on its face, and further that it can only be properly considered in the context of other plans under consideration and believed to be in the pipeline in surrounding areas. For example, the 485 acres of solar proposed at Haunton and a further 500 plus acres under negotiation around Walton/Drakelow/Coton/Rosliston. Taken together these plans could result in there being no farmland, green spaces or views left in this part of South Derbyshire.

Other significant impacts on the natural environment are anticipated with the Wilshe Clean Power Resource Recovery Facility (A Derbyshire Wildlife site built on), the 120 acre freeport site adjacent to the Toyota plant, the biomass plant on brownfield land at Drakelow and potentially 200 acres of EON brownfield land up for Industrial use. The area has already committed considerable land to several large-scale green projects and there would be a further opportunity to increase the contribution to national objectives, if wherever possible, roof spaces on these industrial developments were utilised for solar energy collection.

- **Noise**

The applicants' submissions regarding noise nuisance make no reference to the substantial impact of the piling required for the permanent buildings and to install the many hundreds of photovoltaic panels proposed for the development. The impact of the ongoing electro-static noise from the installation has been portrayed as low level but there is concern that this fails to appreciate the degree of intrusion there will be in a such a tranquil setting (the NCA72 has already identified a reduction in tranquillity from 66% to 42% within the area). The intrusiveness of noise for walkers and for residents endeavouring to enjoy their gardens appears to have been disregarded in the application. The houses opposite the sub-station will be particularly affected.

Additionally, there are known to be very considerable numbers of bats in the area and it is unclear what impact electro-static noise pollution will have on them.

- **Traffic**

No information is provided regarding vehicles that may pass through the village creating noise and potential disruption to its many historical (and listed) buildings. Of very considerable concern is the route identified in the Construction Access Statement: It proposes to direct the bulk of lorries along narrow and winding lanes from the Acresford junction on the A444 and through Grangewood close to several properties, including an old peoples' home. The final part of the route would have lorries turning right just before Home Farm. This turning is extremely tight and unlikely to be navigable without considerable damage to surrounding verges. For large lorries the turn will be impossible, forcing them to drive around the entire village in order to return to approach the turning from the opposite direction. This would create maximum disruption, danger and damage within the conservation area. It is feared that there would also be potential danger to other vehicles (including cyclists) both at the junction and approaching the bend where there is poor and deceptive visibility.

With regard to the proposed routing of traffic, it is concerning that none of the parish councils directly affected has been consulted by SDDC. We are aware that SDDC have begun a new verge planting and maintenance trial which would enhance verges through wildflower planting and reduced mowing. Lullington would very much like to be included in this initiative and to not see its verges destroyed by construction traffic.

- **Light pollution**

Residents are not reassured by the applicants' submissions in respect of potential light pollution and glint and glare. With respect to the latter the submission dismisses the impact on houses but does not address the impact on walkers using the coffin trail, in particular before the 'mitigating' hedges approach maturity. Residents are also concerned that reassurances that there will be no light pollution from the site will prove worthless. Dependant on the time of year in which the development occurs, there will be a temptation to floodlight the site to extend workable hours. It is also of concern that the design for an infrared security system, allegedly requiring no visible lighting, is unlikely to be effective. Given the remoteness of the site and the fact of it being unmanned, any effective system would need to be able to identify intruders. Any deviation from the proposed avoidance of light pollution could have a significant negative impact on wildlife, in particular on bats known to roost locally.

- **Security fencing**

The applicant has proposed to mitigate the impact of the development on wildlife by, among other things, the use of sensitively designed fencing to preserve the ability of larger animals to move across the site. The fencing proposed is deer fencing which would, by definition, exclude

deer that have been seen in the area. The fencing would not allow the movement of badgers from sets that are known to exist within the site.

It has been suggested that the proposed fencing would provide inadequate security and would in all probability have to be upgraded to fortified metal fencing at some point. This would have a consequential adverse impact on wildlife and increase the incompatibility of the fencing with the landscape.

- **Wildlife and biodiversity**

Whilst it is understood that there can ultimately be benefits to wildlife from the ‘protected’ spaces created by ground mounted solar panels, specific concerns have been raised which residents feel should be carefully considered in the context of this hugely intrusive development:

- *In addition to the ponds identified in the application, there is an area of wetland to the east of the site. This field is known to attract Snipe and other migratory birds*
- *Several species of bats are resident in the area and are known to roost in a number of properties close to the site; including in the Church and at Grafton House which is located on the northern edge of the site.*
- *Deer and hares are frequently seen on the site and there are known to be badger sets within the proposed development area. The development will disrupt these species both during commissioning and in the long term due to the fencing off of large areas.*

We hope that in making their determination in respect of this application the Planning Officers and the Planning Committee will take full notice of the significant material considerations we have raised in this letter on behalf of the Parish of Lullington.

We are firmly of the view that this proposed development is completely unsuitable in the area in which it is to be located and believe that the grounds for objection based on the impact on landscape, cultural heritage and local amenity are material and irrefutable. We also firmly believe that the applicant has failed to offer adequate mitigation of the deleterious effects of their proposal and that indeed mitigation of its worst impacts is impractical in such a sensitive landscape adjacent to a conservation area and an unspoilt and historic settlement.

Severn Trent Water – No objection subject to conditions

The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Derbyshire County Council – Archaeologist – No objection subject to conditions

No objection subject to prior to commencement conditions for archaeological field evaluation and subsequent recording depending on the results of the trenching due to the potential presence of below ground archaeological features or probable prehistoric origins.

Derbyshire County Council Policy – Object / Councillor Stuart Swann: County Council Member for Linton (via DCC Policy Response) – Object

Stuart Swann objected to the application due to:

the likely environmental impacts of the proposals, particularly their adverse impacts on the countryside and the loss of an extensive area of good quality agricultural land; impacts on ecology and flood risk, and likely harmful impacts on the local communities of Coton-in-the Elms and Lullington, including through increased HGV traffic generated by the scheme.

DCC Policy objected to the application:

it is considered that the excessive scale, extent and nature of the solar park proposals would be contrary to national planning policies in the National Planning Policy Framework (NPPF) and local planning policies in the Adopted South Derbyshire Local Plan Part 1 (SDLPP1) for sustainable development, climate change and renewable energy, development in the countryside, design and place making and impact on landscape and landscape character. The DCC Policy objection refers to Paragraph 11 of the NPPF, which therefore suggests the SDDC Local Plan is either silent on development for renewable energy, or the Local Plan is out of date. However, the objection then proceeds to refer to several SDDC Plan Policies in its assessment.

In the context of paragraph 11 of the NPPF, the Officer comments conclude that the excessive scale and extent of the application proposals are out-of-scale with the scale and nature of the two settlements they relate closest to at Coton-in-the Elms and Lullington and the nature of the landscape and open countryside within which the application proposals are located. The landscape and visual impact comments express significant concerns that the LVIA submitted in support of the application by the applicant has significantly under-assessed the likely effects on landscape character, key characteristics of the landscape and the visual amenity of the area. The comments, therefore, express significant concern about the adverse harm the application proposals are likely to have on the landscape and open countryside of this area, much of which is good quality agricultural land, and how these impacts, due to the scale of the proposals and their urbanising impacts, would be difficult to adequately mitigate. Furthermore, the comments express concern that there has been no assessment of cumulative landscape effects of development in the wider area where there are currently other large-scale solar farm schemes being proposed to the north and south of this site that cumulatively would introduce quite significant adverse effects to wider landscape character and visual perceptions of the area.

In the context of the requirements of paragraph 11 d (ii) of the NPPF, the Officer comments have considered whether the application proposals would be likely to offer any significant direct community benefits. As noted above, it is acknowledged that at a wider and broader level, the proposals would be likely to generate significant climate change benefits in producing a renewable source of energy that would help contribute to meeting national, county and borough-wide carbon reduction targets. However, other wider more localised community benefits are not mentioned and the County Council would welcome inclusion in this application of further community benefits such as a community fund and potential educational opportunities for local residents.

Overall and on balance, Derbyshire County Council's Officer comments consider that the planning application proposals are contrary to national policies in the NPPF, particularly paragraph 11 and paragraph 158 (see below), and the Policies of the SDLPP1.

Derbyshire Wildlife Trust (DWT) – No objection subject to conditions

A Biodiversity Net Gain Assessment using the recognised Defra 3.0 metric demonstrates that the proposed solar farm development will result in a measurable overall net gain in biodiversity amounting to +269.69% habitat units and +46.98% hedgerow units. As such, the proposal accords with the objectives of the NPPF and policy BNE3 of the South Derbyshire Local Plan. Overall, we concur that the proposed development is unlikely to impact on great crested newt. The provision of mammal gaps in the perimeter fencing is also required to maintain access for Brown Hare, a Species of Principal Importance (priority species), which has also been recorded from the site.

On the basis of the submitted information we advise that the proposed development will affect bats through disturbance of a European Protected Species and the destruction of a resting place. Broad details of appropriate bat mitigation, compensation and enhancement measures are provided in sections 6.1 and 6.2 of the Bat Survey report prepared by Tetra Tech dated July 2021.

The development shall be carried out in accordance with the broad bat mitigation, compensation and enhancement measures outlined in sections 6.1 and 6.2 of the Bat Survey report prepared by Tetra Tech dated July 2021 unless varied by a European Protected Species licence subsequently issued by Natural England, a copy of which shall be submitted to the Local planning Authority. The agreed features for roosting bats shall be permanently installed in accordance with the approved details."

Drakelow Parish – Objection

Unacceptable cumulative impact on wildlife and biodiversity from wider planned projects in Haunton and Walton/Drakelow/Coton and Rosliston.

Impact of the scheme on the landscape of the area has not been satisfactorily mitigated within the proposal

The scheme contravenes SDDC policy S1 in that its massive scale and industrial nature is inappropriate in such close proximity to a conservation area which is rich in interesting, historical and listed buildings.

Challenge the applicant's contention that the project is 'necessary'. It is certainly not 'necessary' to use productive agricultural land for this purpose.

The National Landscape Character Assessment, NCA 72: Mease/Sence Lowlands, which makes a comprehensive case for why this area is unsuitable for large-scale solar developments.

Paragraph: 013 of the National Planning Practice Guidance: "Renewable and low carbon energy" which refers to: " encouraging the effective use of land by focusing large-scale solar farms onto previously developed and non-agricultural land."

The Ten Point Plan for a Green Industrial Revolution", which makes no reference to the use of solar power. This exclusion is no doubt due to the number of known problems with the technology such as the ultimate need for landfill of the panels due to their use of heavy metals; their relative inefficiency in the northern hemisphere; their rapid degeneration in performance requiring disposal in a non-sustainable way and the visual blight they create

Proposal should be considered together with all the other solar farms in the pipeline.

Lichfield District Council – No Objection

Lichfield District Council raises no objection to the principal of the development. You are also advised that Lichfield District are also currently considering a planning application for the installation of a solar farm comprising ground mounted solar PV panels (49.9MW), land south of Main Road Haunton and cumulative impact may need to be had in this regard.

Heather Wheeler MP – Objection

I do not believe the loss of Agricultural land outweighs any 'green' benefits for this development and object to this Planning Application.

National Forest Company (NFC) – Comments

You have helpfully summarised the amendments in your email as:

- Increasing proposed woodland belts from 10m to 15m;
- Provide a new woodland linkage from the north eastern tree belt to the existing woodland block in the north eastern corner of the Site; and
- This additional landscaping has increased the total amount of new tree planting across the site to 5.6ha
- Planting will be carried out at 2m centres and Landscape Management Plan conditioned.
- A phased approach to planting will be conditioned

- The path will be maintained at all times and conditioned.

In our previous responses, we also recommended that a woodland belt (of at least 15metres in width) should be provided along Lullington Road in lieu of the proposed hedgerow to provide north-south connectivity and biodiversity benefits. It does not appear that this has been provided.

Open Spaces Society – Objection

Development will adversely affect public access to, and enjoyment of, an area.

The development badly affects the route of the public footpath (the old Coffin Route) from Coton to Lullington (featured in several walking guides including one I wrote).

This development should be moved to a brownfield site.

Netherseal Parish Council – Objection

We object to the above application and fully support the views and objections submitted by Lullington Parish Meeting.

Coton in the Elms – Objection

- The proposal would result in the loss of a considerable area of good agricultural land.
- It is considered unlikely that the land would be returned to agricultural use on the decommissioning of the solar farm, with the potential that the land remained in some commercial use.
- There would be a great visual impact on the neighbouring conversation area of Lullington, the National Forest and the surrounding area.
- Traffic generated by the construction would be greatly increased through the neighbouring villages of Grangewood, Coton in the Elms and Rosliston which are accessed through narrow lanes
- This application together with other proposals in South Derbyshire would result in an overwhelming impact and loss of visual amenity on rural communities.

Having regard to the above comments, the Parish Council object to this application.

Derbyshire County Council: Highways Authority – Comments / No objection subject to conditions

In terms of impact on network capacity:

It is considered that the likely HGV movements during the construction period would not have a material impact on the operation of the local road network in the vicinity of the site, however this does depend on the results of the requested swept paths for the construction vehicles – see below re further information.

Once operational, the site will be unmanned with operational activities limited to very occasional visits for maintenance; therefore, vehicular movements will be negligible (an average of one van per month is predicted). This is considered acceptable and would not result in any impact on the local road network.

Initial response sought further information:

- Results of the Automatic Traffic Count undertaken during March 2021 has not been submitted in support of the application and this information is requested to validate the visibility splay requirement.
- No indication of the type and size of vehicle that would visit the site during the construction period has been provided and it is therefore not possible to confirm that the proposed access route to the site is satisfactory and does not require any improvements to safely accommodate the construction vehicles.

- Taking this into account it is requested that the applicant submit swept path drawings showing the largest vehicle accessing the site from the A444.
- The applicant is therefore requested to provide details as to how it will be ensured that construction vehicles will not meet whilst routing to and from the site.
- It is also required that the applicant provides a signage strategy to ensure construction vehicles use the allocated route to and from the site. This signage strategy is to be submitted to and approved by the Local Highway Authority.

Local Lead Flood Authority (LLFA) – Comments / No Objection subject to Conditions

Initial response sought further information:

- Information regarding proposed impermeable areas on the site and how surface water from these areas is proposed to be managed including attenuation strategy as needed,
- Basic calculation of the greenfield runoff and discharge rates,
- What is the status of the Construction Compound shown outside the red line boundary along the eastern edge of the site?
- Additional detail will be needed for the proposed internal road network to determine if/how this may affect site drainage,
- Given that infiltration is the primary mode of surface water discharge from the site, an addendum to the Soil Management Plan or other information should be provided to address compaction and other construction phase related impacts to the soil and vegetative cover that may impact the infiltration rate of the soils.

Further information was provided by the applicant addressing the points above.

Subsequent reconsultation resulted in the following comments:

The Lead Local Flood Authority (LLFA) has reviewed the most recent information submitted for this application, which was received on 10-Dec 2021. The LLFA has no objection subject to the conditions below.

"No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Rossi Long Consulting, (June 2021), Flood Risk Assessment and Drainage Strategy, RLC Ref.- 201053 rev-02. Tetra Tech, Soil Management Strategy, 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.

"Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction 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 LPA, before the commencement of any works, 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.

Historic England – No objection / Comments

Initial concerns regarding the application on heritage grounds:

- There is very little analysis of the significance of the listed buildings and conservation area identified, or consideration of the potential impact of the proposals on their setting.
- There is reference – DAS pg19 and Archeological Assessment pg8 – to a Heritage Statement within the accompanying documents which appears not have been submitted as part of this application.
- We therefore advise that a further assessment is provided as part of the application in order to meet the requirements of Paragraph 194 of the NPPF 2021.
- From the LVIA there appears to be a number of views in which the proposed solar farm could potentially be visually intrusive to views of Church of All Saints – viewpoints 2, 3, 5a, 5b, 6 and 7
- On the basis of the images provided, the proposal is likely to be harmful to the significance the highly graded Church of All Saints derives from its setting and the associated conservation area.
- Clearly there will be some public benefits from this scheme, which your authority will need to weigh against the harm caused to the historic environment.

Subsequent reconsultation resulted in the following comments:

It will be for your authority to consider whether the Heritage Statement and Landscape Visual Impact Assessment provide a robust analysis of the potential impacts of the proposed development.

We recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Derbyshire County Council (DCC): Public Rights of Way (PRoW) – Comments / No objection

Lullington Public Footpath No. 1 is directly affected by the proposed work. The Rights of Way Section has no objection to the proposals as it appears that both the legal line of the path and the walked line have been protected within the proposed layout.

advise the applicant as follows: -

- The footpath must remain open and unobstructed.
- 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.
- Hedges must not be planted within one metre of the edge of either path.

Campaign to Protect Rural England (CPRE) Derbyshire – Object

Our primary focus and objective is to ensure that sensitive landscapes are protected from detrimental impacts of development and in line with the NPPF guidelines on sustainability, are preserved for both current and future generations from the perspective of distinctive landscape

character assets as well as important access and amenity to cherished green spaces conveniently close to where people live.

supportive in principle of well-planned development of this nature that also accounts thoroughly for local needs.

the detrimental impact on what is clearly high value landscape (acknowledged as such within the application submission) is unacceptable.

The landscape has all the distinctive features highlighted in Natural England's robustly-evidenced Landscape Character Analysis of the area – rolling wooded hills and valleys, mature hedgerows, and dry-stone walls as well as numerous veteran trees throughout. proposed extensive development site of 173 acres is largely open and sloping, making it highly visible from the roads and from the multiple very well-used footpaths that criss-cross the area. CPRE believe that this impact would be significant and highly detrimental.

negative impact on the experience of this landscape for the many walkers, road-users, locals and visitors who currently benefit from it will be enormous and confronting

From the north, the development would dominate the slopes surrounding the attractive pastoral landscape of grassland fields bounded by hedgerows and mature trees, and these would be subsumed and lost within a modern industrialised landscape.

From the south, the development would be highly prominent from the well-used right of way network, particularly when leaving Lullington. This would have a major detrimental impact upon open views.

Disappointed in the non-robust nature of community engagement that has taken place to date for the Solar applications. It appears to fall far short of recommended best practice.

Conservation Officer – Less than substantial harm. No Objection - subject to conditions

Adjacent assets

- The Church of All Saints, a Grade II* Listed Building (c.385m south of the site)
- Churchyard walls and gates to All Saints Church, a Grade II Listed Building (c.385m south of the site)
- Village Hall, Lullington, a Grade II Listed Building (c.385m south of the site)
- Lady Leys Farmhouse, a Grade II Listed Building (c.350m west of the site)
- Woodfields Farmhouse, a Grade II Listed Building (c.580m east of the site)
- Raddle Farmhouse, a Grade II Listed Building (1.28km west of the site)
- The Old School House, Coton in the Elms Grade II Listed Building (c. 1.1km north of site)
- Manor Farmhouse, Coton in the Elms Grade II Listed Building (c. 1.1km north of site)
- Lullington Conservation Area (c.300m south of the site)
- Grafton House, an unlisted building of local heritage interest

To the extent to which a broad wider visibility in the landscape contributes to the special significance of the church at this distance, and given the low lying nature of the proposed development, the impacts will be minor and would not amount to harm to the special significance of the church as a listed building.

Similarly the site would be apparent on approaches to the Lullington conservation area along both Lullington Road and the C30 (un-named road running north-south to the east of the site), however the site itself would not be apparent from within Lullington Conservation Area, except as a thin strip of panels seen on the horizon line beyond field hedges in views north from the northern edge of the conservation area.

A foreground of agricultural fields would remain to provide a context and edge to the village and relatively modest reinforcement of the hedge along the southern boundary of the site in this area would provide effective screening and a relatively robust woodland block is proposed

along much of the southern boundary.

Whilst woodland planting itself will have an impact on the landscape the area has seen woodland plantation development in modern times such that addition of woodland would not be out of character with the established landscape settings of nearby heritage assets.

From the direction of Woodfields Farm the panels would be seen 'edge on' and would be far less visible, again reinforcement of existing hedging along the C30 is proposed and there would be no part of the development within 500 metres of the farm complex. In addition the listed farmhouse and its associated traditional farm buildings are on the east side of the farm site, with several large modern portal framed agricultural buildings to their west. As such from the farmhouse itself and from the associated traditional yard it would not be possible to perceive the proposed development. Association with the older outbuildings provides the immediate setting and context to the farmhouse, whilst wider agricultural setting also provides some context for the listed farmhouse this is most readily experienced to the North, East and South owing to the modern buildings, but even so several small enclosure fields would remain to the west of the farm site and would contribute to provide agricultural context in all directions. I would not be of the view that the proposed development would harm the setting of Woodfields Farm in any way which affects its special significance as a listed building.

Lady Leys Farm to the west of the application site is set back from the road via a long driveway and located near the top of a slight rise making it reasonably prominent from Lullington Road, albeit at a distance of some 350 metres with little intervening screening. The farmhouse can be seen amongst a couple of mature trees with the lower forms of agricultural buildings just visible behind over the rise. The driveway and older agricultural buildings form the immediate context and setting within which the building would be experienced and appreciated, although wider agricultural land also provides context. The farmhouse faces its main elevation southeast, angled slightly away from the application site but the property would have good views over an agricultural landscape with which it is associated. The proposed development would be visible from the farmhouse but not really in context with it in key views from other vantage points. In my view there would be some very minor adverse impact upon the setting of Woodfields Farm which seems placed to take advantage of an elevated position. The harm would be at the lowest end of the 'less than substantial' scale as the bulk of its significance gained via setting is from its immediate setting, nearby fields, the driveway approach, visibility from the lane and relationship to its yard at the rear (west) all of which would be unaffected.

Raddle Farm and Poplars Farm are both located at greater distance and beyond the high ridge to the west of Lullington Road such that I am of the view that there would be no relationship between these assets and the site and no impacts upon their significance.

Listed buildings within Coton in the Elms have Coton Wood and other modern plantation woodland (Coton Wood was only planted in 1995) between them and the site such that the landscape within which the site would be situated has little relationship to these assets and does not form a meaningful component of their settings.

In addition to these designated heritage assets the main other consideration is the former parkland of Lullington Hall. The Hall itself is not a listed building and its parkland was extended through several phases, not originally extending north of Coton Lane. The site is to the immediate north of the norther later extension of the parkland. The northern section beyond Coton Lane has been repartitioned (including a field boundary back in a position where it had been removed when the parkland was extended) and most of the parkland trees which did not

sit on these field boundaries have been removed to facilitate agricultural use. The significance of the northern part of the parkland is limited, having less relationship with the all, and having lost much of its short lived character as part of the parkland. In my view the proposal would not harm this remnant parkland as a non-designated heritage asset.

Overall I would be of the view that some minor harm would arise from impacts on the wider setting of Lady Leys Farm, the impacts on other assets are all assessed as neutral so even when considered holistically the conclusion would be towards harm.

This would fall at the bottom end of the broad scale of 'less than substantial harm'. Whilst this would engage a 'strong and statutory' presumption against granting planning permission under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a test to apply under paragraph 202 (2021 version) of the NPPF whereby public benefits of a scheme are weighed against the harm to heritage assets or their settings.

The test is a weighted one, benefits must substantially outweigh harm to justify a departure from the statutory presumption which arises from the act – it is important that the test is not applied as a simple balance. However, the benefits of the scheme in terms of generating low-carbon energy and helping to reduce CO2 emissions and reliance upon conventional fuel sources would be substantial in and of itself, aside from other factors such as employment opportunities in the construction and maintenance of the site.

Whilst it is for the decision maker, rather than myself, to apply that balance I do believe that there are significant benefits in this case relative to the scale of harm which I have identified, and as such I would not be at all surprised if the decision maker concluded that there are substantial wider public benefits which would allow the test in paragraph 202 to be successfully applied and for planning permission to be granted in this case.

The larger structures, the inverter equipment buildings etc, have been located away from sensitive assets and visual receptors, it is only these structures which are likely to emit some low level noise and whilst the above mostly focuses on visual matters I have considered non-visual aspects of setting such as noise and odour but am of the view that (aside from that associated with construction which would be short lived) there would be no impacts arising which might affect the significance of heritage assets via their settings.

I would suggest conditions requiring the posts and CCTV cameras be finished in dark colours (black, dark green or dark grey) to minimise their visual prominence, and a similar condition for the larger structures (Conversion units, substation and control room etc), the proposed fencing has a rural character (timber posts and wire) so I do not feel the need for further conditions on that, although I assume there will also be access gates and note no detail of these beyond the two access plans which only show their location rather than their appearance on elevation. I would also suggest a landscaping scheme to firm up details of the proposed screening planting – although I suspect this will be a requirement raised by others anyway for landscape and biodiversity reasons.

Public Objections

211 no. letters of objection (225no. in total on file reduced for duplications) have been received from the public over both consultation periods raising the following comments:

One letter from was hand-written and could not be fully understood but was noted as an objection.

Principle of the development:

- a) We should be encouraging sustainable food production at a local level and not taking away the land from the farming community. This is particularly pertinent in the aftermath of Brexit and the challenges presented by the pandemic.
- b) If the landlords don't want to farm they should sell to someone who does
- c) This scheme would place a massive industrial site 10 times bigger than the footprint of the village right on its borders.
- d) Solar farms are not efficient enough in the UK weather and we need to move to tidal power or nuclear power to make our green and pleasant land "greener"
- e) Assembly of the PV panels abroad and supply chain would offset any green benefits
- f) This application is not in line with the Government's 'Ten Point Plan for a Green Industrial Revolution' which does not include solar power, see points 1, 2 and 3 or indeed point 9, 'Protecting our Natural Environment'.
- g) This proposal is anti-agricultural at a time when the country need to be a self sufficient in food production as possible.
- h) We need to grow more of our own food not less.
- i) Farm land should be used for this purpose.
- j) The solar farm would ruin the tone of the villages involved and the surrounding areas
- k) We as residents who moved out to areas such as this to enjoy the countryside which we have paid a premium for are slowly watching our beautiful countryside disappear under new housing estates, industrial monstrosities and now this
- l) Concern that if application is approved it will lead to applications for housing in the area and these being approved
- m) The power generating station will not meet the needs of the local people
- n) Planning guidance on solar panelling seeks such development on brownfield sites and rooftops before agricultural land
- o) This proposed development goes against the Governments stance on the use of perfectly good farming land for and 'industrial' application.
- p) Benefit to absent landlords and loss of acreage to existing local tenant farmers
- q) Loss of grade 2 and 3a productive agricultural land
- r) National guidance is that the use of good quality agricultural land for large scale solar farms should be avoided.
- s) The areas dedicated to solar farms can later be designated as 'Brownfield'. I am concerned that this could eventually clear the way for further unnecessary development in this area.
- t) The development does not properly address the guidelines that state that brownfield or rooftop locations are preferred for this type of development.
- u) Impact on green belt
- v) Proposal would result in the urbanisation of Lullington
- w) The brownfield site at the former Drakelow power station would be much more suitable for such an application
- x) The solar panels are ugly and are not in keeping with a rural landscape, altering the historic characteristic of the area.
- y) Site selection document is misleading – Haunton is deemed unsuitable but is subject of a solar panel application
- z) In addition to the soil analysis, consideration should be given to the actual use of the land.

- aa) Solar Panels should be sought on the other large scale committed green projects (Wilshie Clean Power Resource Recovery Facility, Toyota Plant expansion, Drakelow)
- bb) The development fails to properly address guidelines that would prefer brownfield site and rooftop locations for solar developments.
- cc) The proposed land is good quality, demonstrated by the wide variety of crops being grown
- dd) Financial beneficiaries will be the developers, the energy company and the landowners who have no links to the area.
- ee) Failure to consider cumulative impacts of developments
- ff) Prime agricultural land, which arguably is just as important as providing sustainable energy.
- gg) proposal represents a creeping urbanisation of the countryside at a time when we should be preserving farmland.
- hh) The soil survey submitted as part of the application confirms that around 50% of the land proposed to be covered by solar panels is good quality agricultural land (grades 2 and 3a). Recently, it has all been productive; growing maize, wheat and crisping potatoes. The UK needs to encourage farming in the post-Brexit period.
- ii) Given the increased cost of living and food poverty, I would suggest that food comes before energy.
- jj) visibly looking at the fields in question, all would appear to be likely to provide an abundance of crops, and whilst this might not be classified as the 'best and most versatile land', it is certainly important in the context of food poverty.
- kk) Recent planning for the Haunton Solar Farm approved (49.9MW), and planning for an even larger solar farm (540 Acres) near Walton. Both are very close to Lullington and Cotton-in-the-Elms, and whilst under different council governance need to be considered in the context of the local topology and loss of land
- ll) Site selection report mentions Grade 4 land outside Swadlincote but that this is outside the scope of their research area. If there is such a desperate need for land for solar energy farms to be built why are all possibilities not being explored and considered?
- mm)
- nn) in light of the Ukraine conflict we should be saving our land for growing food not putting up solar panels, these should be an integral part of any new construction building as part of the roof, and it should be mandatory on any new build,
- oo) Food Security should have equal (if not stronger) weight than the energy argument as Solar can go on roof-tops and industrial buildings such as the M42 Junction 11 buildings.
- pp) There are 250,000 hectares of south-facing industrial roof space which would generate 50% of the UK's electricity demand (source: BRE National Solar Centre). Solar should be on industrial and house roofs and not agricultural fields for food production and local amenity. The industrial development on agricultural fields at J9 of the A42/M42 for Jaguar Landrover does not have a solar panel on it.
- qq) Local precedent of Hinckley & Bosworth planning ref 19/01256/FUL to refuse such applications given they are incongruent with local environs.
- rr) Wind turbines would be less intrusive and impactful.

Economic Impacts of the development

- a) Local businesses, such as pubs, will suffer a loss of trade as Lullington & its surrounding villages will become less desirable to visit due to the loss of a unique outlook & setting.

- b) Proposed development will result in the loss of livelihood to tenant farmers and farm labourers as a result of Landlords who do not live locally.
- c) Ruin the local area which is beautiful - impacting holidays here (economic impact) and enjoy rolling countryside and walks
- d) No economic benefit to local area
- e) This development is proposed on good quality agricultural land with consequent loss of food production and on the livelihoods of tenant farmers. None of its benefits accrue to the local area or to the County.
- f) Lullington attracts considerable numbers of walkers and cyclists and other visitors. The development would result in a significant loss of amenity as a result of its impact on significant views, including the historically important Coffin Trail.
- g) For a very small village, tireless efforts by villagers and village supporters, including Lullington Park Cricket Club, Colville Arms, the Annual Open Gardens and Classic Car Event make Lullington an attractive venue for visitors; cricketers, cyclists, walkers and riders; which this development will fundamentally taint (tourism is important to the National Forest/SODC in particular).

Issues with submitted information

- a) Misleading statements in the supporting documents regarding boundary lines
Leading questions in the consultation held by the developer causing misleading representation/support
- b) Some of the information has been redacted (blacked out) which seems to infer a lack of transparency – this is most notable in the Ecological Report (Pages 2, 15, 26 and in Appendix D)
- c) Reflection survey has excluded my property from its findings and conclusion, the work is therefore incomplete and appropriate diligence not been applied
- d) the applicant's response that they say they have sought to consult locally with local residents in person. This is completely untrue.
- e) The statement that these issues (HGV traffic) are dealt with in the CEMP is erroneous, the CEMP was prepared and submitted prior to the submission of any objections and is a standard all-embracing document.

Impact of the development on access, highways, safety and road users

- a) Around the village of Lullington there are multiple livery yards which like the facility of the road due to it helping the horses keep fit and healthy.
- b) Glint and glare assessment does not take into account impact on horses which riders use on the adjacent local roads
- c) Higher hedging and planting mitigation will impact on visibility splays on local roads
- d) Glint and glare assessment does not assess Lullington road
- e) Significant number of RTAs involving wildlife which will be increased reducing road safety and impact on wildlife

Impacts of the development on Conservation and Heritage

- a) The approach to Lullington CA from the north is highlighted is the conservation statement which would be impacted
- b) The village of Lullington can be approached from four directions. Three of these approaches will be affected visually by the proposed site,
- c) The proposed development is too close to a conservation area and would completely dwarf a largely unspoilt village destroying important characteristics of its setting.

- d) The vistas between Little Liverpool (north of Lullington) and Coton on the Elms and Lullington would be negatively impacted by panels, high hedges and tree belts
- e) The application will have a detrimental visual impact on the adjacent conservation area of Lullington and neighbouring village of Coton in the Elms.
- f) The 'Lullington Character Statement' records the special historic and archaeological interest that makes the character and appearance of Lullington worthy of protection.
- g) The Lullington CA identifies the long views from neighbouring villages and the narrow winding lanes with occasional glimpses of the church spire.
- h) The application sits just outside the boundaries of the conservation area and would completely dwarf the scale of the village
- i) The vistas between Little Liverpool and Lutlington, and Cotton and Lullington would be a sea of ugly panels, hidden by high hedges and tree belts destroying the essential character of the landscape.
- j) This development is completely out of keeping with the heritage and character of the local area/surrounding villages
- k) Lullington and Coton have 1000s of years of rural, farming heritage and this development would greatly diminish the historical character and aesthetic of these small-scale, rural communities.

Impacts of the development of pollution/carbon:

- a) There is a lack of recycling opportunities for solar panel recycling and to grant permission for this will add to this issue and add to burden on resources adding to scarcity issues in the future.
- b) Toxic materials and hazardous products used during the manufacturing process of the solar panels can affect the environment.
- c) Solar energy production is very much a short term solution. No consideration has been given for the longevity of the solar in terms of its useful lifespan and what actually happens to the panels once they have depleted.
- d) Over a period of time, I would have thought that the solar panels would become weathered, and start to break down, discharging foreign bodies into the soil which ultimately find their way into this important watercourse. Solar also produces carbon, admittedly less than by burning fossil fuels, but still an impact – surely wind is a much better solution!

Impacts of the development on landscape and visual character

- a) Government Planning Policy Statement 7, this proposal contravenes a key principle to “protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife”
- b) Given nature of fencing to allow mammals to move across site, concern that fencing would not secure the site and subsequent applications would be submitted for more visually intrusive fencing would be submitted
- c) Planting for visual mitigation will take longer than 25 years to mature and function as proposed
- d) the heart of our National Forest is not the correct place for this proposal.
- e) The place for developments on this vast scale which will endanger numerous wild species in the proposed location is brown field sites
- f) Site is within National Landscape Character Assessment NCA 72: Mease/Sence Lowlands

- g) NCA 72 identifies strategic environmental opportunities to: “Protect and appropriately manage the historic character, settlement pattern and features of this landscape... “ (SEO3)
- h) NCA 72 identifies strategic environmental opportunities to: “Protect the overall strong, rural, open and tranquil character of this well ordered lowland agricultural landscape, increasing the opportunity to encourage sustainable food production”(SEO4)
- i) The NCA72 has already identified a reduction in tranquillity from 66% to 42% within the area and the proposal would further reduce this from noise
- j) Proposed mitigation to obscure the PV panels would destroy the character of the area
- k) proposed development would lead to a loss of tranquillity and to the destruction of a sensitive and historic rural landscape
- l) Proposed woodland belts would impact views along roads and across the lowlands
- m) The proposals would substantially change the character of this part of Derbyshire detrimentally.
- n) Proposed woodland belts would be a long term mitigation – how long until the woodland would grow out to provide necessary mitigation
- o) The development fails to properly address guidelines that would prefer brownfield site and rooftop locations for solar developments.
- p) This industrial scale development is completely inappropriate in an area of unspoilt countryside and inconsistent with policy and guidelines to protect the overall strong, rural, open and tranquil character of this well-ordered lowland, agricultural landscape.
- q) The development would result in a significant loss of amenity as a result of its impact on significant views, including the historically important Coffin Trail.
- r) Proposed mitigation of the visual impact of the development is unsuitable to the location. Efforts to hide the 3m high panels will themselves detract from the landscape. The currently proposed deer fencing is unrealistic and its inevitable substitution for something more secure will add to the visual blight
- s) The CON LVIA by Urban Green report confirms the “significant” impact on the local Landscape and Footpath.

Impacts on the Public Right of Way (Coffin Trail):

- a) PROW will be enclosed by fences with hedging which could lead to obstruction/unusable prefer not to hedge
- b) Visual impact to PROW which was the old coffin walk from Coton to Lullington removing all views
- c) The visual impact on the PROW and walking trails would remove the ability to exercise in the beautiful countryside impacting the local population
- d) Extended hours of lighting from floodlights to enable working in the dark would impact walking routes in the area
- e) The highest concentration of operational noise (see operational noise contour plot), is either side of the “coffin” trail public footpath.
- f) will have an adverse impact on the enjoyment of the countryside, food production, valued heritage Processional Route.
- g) Greater weight should be given to negative impacts on the walking routes in the context of Covid and ability to access such for the benefit of mental health
- h) Regularly use the traditional trails that connect these villages, predominantly for the countryside views which would be totally ruined by the proposal and fencing.

Impact of the development on amenity:

- a) Residential properties are sensitive noise receptors and the siting of the various compounds, cabins and transformer stations is closest to these receptors and may cause noise issues for these residents as a result.
- b) Whilst it is said the panels will not be reflective 100% absorption of light is not possible and adjacent neighbours may experience glare issues which may cause nuisance.

Impact of development on Flood Risk and Surface water/Foul Drainage

- a) Loss of crops on the field would undermine ability of land to soakaway rainfall leading to local flooding issues and exacerbating existing pooling on site

Construction Impacts of the development

- a) The location of this site is not suitable for 860 HGV movements during the build period.
- b) Noise impacts from piling for permanent buildings/structures and PV structures
- c) Noise impacts from electro static noise impacting the tranquility of NCA72
- d) Noise impacts on wildlife, specifically bats
- e) Traffic routing through tight corners – specifically Home Farm – and impacts to safety of road users – vehicles, cyclists and pedestrians
- f) Local lanes are not suitable for HGV movements
- g) The lane on which the site entrance is situated is used by walkers, horse riders and cyclists and they will be put in danger by all the extra activities on the roads.
- h) Local lanes are under increased pressure from nearby housing developments and do not have the capacity for constructional and operational traffic proposed.
- i) HGV movements did not accord to agreed routing in previous development in the area
- j) The proposal is for 20+ HGV's per day in an area that currently has none.
- k) The planned routing of traffic to the site offers insufficient protection to the village centre and the proposed journey would take traffic along unsuitable narrow lanes culminating in a dangerous hairpin turn on a blind bend.
- l) The construction will cause unacceptable disruption and is incompatible with the local roads
- m) The noise generated by traffic and piling during construction and the ongoing electrostatic noise throughout the 40 year life of the project will have an intrusive impact in what is currently a very tranquil rural setting.
- n) Request the developer undertake a filmed dummy run of the route utilising the type of vehicle they intend to use and at a time when they intend to use the route. Such a trial should be overseen by yourselves.

Impact of the development on ecology, biodiversity and wildlife

- a) Soil stores the most carbon and its disturbance will release this, and the PV panel will remove the ability of the soil to continue to undertake this role
- b) The site is rich in wildlife with established hedgerows and ponds. It is known locally to be a habitat for badgers, hares, bats and many bird species and is likely to support many smaller mammals and insect life.
- c) Light pollution from the site will have a negative impact in a rural setting, in particular on nocturnal birds and mammals (in particular bats)
- d) Loss of habitat for hunting/foraging birds and mammals
- e) Loss of ancient hedgerows
- f) Lighting impacts on bats

- g) The proposed site will affect the natural habitat in a way which would be impossible to amend.
- h) Hedgerow and habitat removal caused by this development will undermined local ecosystems and tokenistic planting/pond areas will do little to properly address or rectify this long term damage.

Other concerns raised:

- a) Dangerous Electromagnetic Radiations Reduce Life Expectancy
- b) Detrimental visual impact on and tranquillity of landscape would impact on peoples ability to enjoy the countryside impacting their mental health
- c) Who will decommission the site in the event the company is wound up or ceases trading
- d) What is the future plan for this sites once panels are removed? Will it become brown field site allowing big housing estates in the countryside with no transport links. Leaving city centre housing to deteriorate
- e) The glare and reflected light from solar panels could prove a danger to aircraft
- f) Before any planning decision is made perhaps a site visit by the Planning Committee would be appropriate and give you a better understanding of our issues.
- g) Intrusive pilling will disturb and impact foundation to adjacent housing which have old foundations

3no. letters of support have been received over both consultation period raising the following comments:

- a) Solar energy is the future of energy generation. The impact is locally minor.
- b) Local residents would not object if further away
- c) Surrounding of conservation area is not reflective of actual historic context but countryside consistent with 'post war' intensive agriculture with significant use of chemicals in the intensive production of foods
- d) The CA statement identifies the long views from neighbouring villages and the narrow winding lanes with occasional glimpses of the church spire which appear to remain post development
- e) The application sits just outside the boundaries of the conservation area and as such opposed to completely dwarfing the scale of the village would have little or zero impact.
- f) The vistas between Little Liverpool and Lullington, and Coton and Lullington would be a sea of panels, hidden by high hedges and tree belts not interfering with the essential character of the landscape.
- g) It is clear that proposed mitigation aimed at obscuring the 3 metre high solar panels with high hedging and bands of tree planting will in reality have relevantly little impact on the character of the area.
- h) The proposed development once constructed would be silent and passive and therefore not affect the tranquillity of the area.
- i) Visitors to the areas yearly events predominantly arrive by car and as the proposed development is outside the village it would not detract from the village and its setting and would not represent a loss of amenity to the community.
- j) The existential issue regarding zero carbon energy production would be a benefit to the local area
- k) The HGVs created by the construction of the proposed development are no different to the articulated lorries for potatoes and milk tankers which use the local roads daily

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1) 2016: 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), INF5 (East Midlands Airport), INF7 (Green Infrastructure), INF8 (The National Forest)..

Local Plan Part 2 (LP2) 2017: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE6 (Agricultural Development), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage).

The relevant local guidance is:

Trees and Development SPD.

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) 2021.

Planning Practice Guidance (PPG): Renewable and low carbon energy.

The relevant legislation is:

The Town and Country Planning 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
- The impact of development on agricultural land
- The impact of the development on trees, hedgerows, landscape character and footpaths
- The Impact of the development on biodiversity
- The impact of the development on designated heritage assets and archaeology
- The impact of the development on residential amenity and highway safety
- The impact of the development on flood risk and water management (including the River Mease)
- The impact of the development on East Midlands Airport operations
- Wider considerations
- Procedural matters
- Conclusion and Planning Balance

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of the Schedule 2 to those Regulations, being an installation for production of energy. The development was first screened in December 2020, and having

taken into account the criteria of Schedule 3 to the Regulations, the proposal was not considered to result in any significant environmental effects in the context and purpose of the EIA Regulations. Further to this, given the Oaklands Solar Farm proposal which is a Nationally Significant Infrastructure Project (NSIP), the development was again screened in March 2022 to account for this proposal as part of the baseline and considering in combination effects. Again, the proposal was not considered to result in any significant environmental effects in the context and purpose of the EIA Regulations. Accordingly, the proposal is not considered to be EIA Development and the application is not accompanied by an Environmental Statement.

Planning assessment

The Principle of Development

The Council does not have allocated sites for large scale solar farms. The approach is to assess each on their own merits against the relevant Local Plan and material considerations as per Section 38(6) of the Planning and Compulsory Purchase Act 2004. Furthermore, the Council does not prioritise one renewable energy source over others. The application is for a solar farm and the proposal will be assessed on its merits.

The most applicable policies to consider are S1, S2, S3, E7 and SD6 of the LP1 and SDT1, BNE5 and BNE6 of the LP2.

SDT1 of the LP2 provides definition of the limits of a settlement, ie. settlement boundaries. The entire application site is located outside of any settlement boundary, the closest being that of Lullington to the south and Coton on the Elms to the north.

The site is therefore located in a rural area/open countryside location in Local Plan land use terms.

Consequently, policy BNE5 of the LP2 'Development in Rural Areas' is relevant which states that 'outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

- i. allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- ii. otherwise essential to a rural based activity; or
- iii. unavoidable outside settlement boundaries; or
- iv. considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap not for normally more than two dwellings, within small groups or housing; and
- v. will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.'

Following on from this it is important to consider policy SD6 of the LP1 which states that 'The Council will support renewable and other energy developments and ancillary buildings or infrastructure subject to the following considerations:

- i. that the environmental effects of the proposal have been appropriately considered and schemes will not give rise to unacceptable impacts on landscape or townscape character, ecology, the historic environment or cultural heritage assets.
- ii. that proposals will not give rise to unacceptable impacts on local amenity, or give rise to safety concerns, as a result of noise, shadow flicker, electromagnetic interference, emissions to the air or ground, odour or traffic generation and congestion.'

At national level, whilst there is no specific policy for solar energy development in the NPPF, there are however, policies for mitigating the impacts of climate change and specifically

relating to the development of renewable energy projects these are set out in the NPPF in Chapter 14: Meeting the challenge of climate change, flooding and coastal change. Paragraphs 152 - 158 of Chapter 14, sets out the Government's overarching requirements for local planning authorities through the planning system for mitigating the impacts of climate change.

Specifically, paragraph 152 states: *"The planning system should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings, and support renewable and low carbon energy and associated infrastructure"*.

Paragraph 153 states that to help increase the use and supply of renewable and low carbon energy and heat, plans should:

*"a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);
b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and
c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers."*

At paragraph 158 the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:

*a. not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
b. approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.'*

The Planning Policy Guidance on Renewable and Low Carbon Energy provides further guidance on considering and determining developments for renewable energy. The NPPG states:

"The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively."

The NPPG acknowledges that the Site selection of any large scale solar farms should be carefully considered:

"where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays."

In respect of the policy BNE5 considerations the proposed development is 70.18 hectares. As part of the application an assessment of suitable sites was undertaken. There are a number of

relevant considerations set out in the selection criteria which follow the PPG criteria set out in paragraph ID 50013 which include:

- Identification of study area
- Assessing that the use of agricultural land is necessary
- Assessing that there is no poorer quality land available; and
- Assessing that the proposal allows for continued agricultural use where application and/or encouraging biodiversity improvements around the arrays.

Given such site selection is required for large scale (undefined in NPPG) this has been set out as above 1MW solar development which would require on average an area of 2.5hectares in the submitted documents.

The approach to the site selection is accepted by Officers; it is considered that there are key criteria of:

- Irradiance and site topography
- Proximity of a site to dwellings
- Capacity of a site
- Grid connection
- Agricultural land classification and land type
- Accessibility

Which are critical in terms of siting solar farms and result in development in the countryside being unavoidable in line criteria iii of policy BNE5.

In response to public comments, the assessment included the consideration of Drakelow Power Station (discounted due to existing allocations), former gravel pits adjacent A38 (discounted as having been reprofiled to provide ecological benefits) and commercial rooftops (discounted due to availability, scale and efficiencies), all of which are accepted by Officers.

Comments relating to efficiency of solar panels, better renewable options such as wind and reference to the Governments 10 point plan have all been considered. As set out, the application is for solar panels, and the merits of this proposal will be considered. It is not for the council to propose another alternative technology as a better proposal.

There is a vast national context of energy policy, demand, creation and decarbonisation to consider. The UK Government has committed to deliver on the Paris Agreement by vigorously achieving its carbon budget and pursuing a target to reduce greenhouse gas emissions to 'net zero' by 2050, ending the UK's contribution to global warming within 31 years. This was enshrined in law in June 2019 through amendments to the 2050 greenhouse gas emissions reduction target in the Climate Change Act 2008 from at least 80% to at least 100%, otherwise known as 'net zero'. On review of the wider information, it is considered that there is no single method of achieving this, and that solar panels are part of a wider diversification of less carbon intensive energy creation to meet their climate change commitments and carbon budgets to achieve the overall aim of net-zero emissions by 2050.

At local level, in June 2019 South Derbyshire District Council declared a 'climate emergency' whereby the Council pledged to take local action to contribute to national carbon neutral targets through the development of practices and policies, with an aim to being carbon neutral in the District by 2030. As set out in the supporting action plan *"the urgency is because climate change is likely to have significant impacts on the district of South Derbyshire - on our environment, on our economy and on the whole social fabric.* The 2015 Paris Agreement

developed the concept of 'carbon budgets' for all countries. In September 2019 this data was published as carbon budgets for all council administrative areas across the UK. The data for the area of South Derbyshire states: "If CO2 emissions remain at the same levels as 2017, the entire District's carbon budget will have been used by 2026"

The Councils Action Plan also sets out actions which follow a hierarchy to tackle the climate emergency: the first being:

Mitigation – decarbonisation actions that reduce or remove carbon emissions as well as eliminating or reducing the negative human impact on biodiversity.

The proposed development, which would generate almost 50 MW of energy which is anticipated to power 15000 homes annually is considered a significant public benefit given the context set out above. Indeed, such energy which could power dwellings within the district would accord with the broad supportive policy principles for the provision of renewable energy projects of the NPPF, NPPG, LPP1.

Whilst Solar Farms are not included in the Governments Ten Point plan noted by objections, as set out the context is vast, and for the reasons above the proposed development is considered to result in significant benefits. With regards to point 9 in the plan and protecting the environment this is considered below.

On this basis then, notwithstanding the national support for solar farms and significant public benefit arising from the proposed development, the impacts on the loss of agricultural land, heritage assets, character, landscape, ecology and flood risk need to be considered as per policy SD6 of the LPP1.

The impact of development of agricultural land

NPPF paragraph 174 indicates that decisions should recognise the economic and other benefits of best and most versatile agricultural land.

Paragraph 013 of the NPPG refers to 'encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value'.

More recently, the matter of agricultural land grade is addressed further in the emerging National Policy Statement for Renewable Energy Infrastructure (EN-3) which was consulted on last year and is awaiting adoption. Paragraph 2.48.13 states "Solar is a highly flexible technology and as such can be deployed on a wide variety of land types. Where possible, ground mounted Solar PV projects should utilise previously developed land, brownfield land, contaminated land, industrial land, or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). However, land type should not be a predominating factor in determining the suitability of the site location."

It is clear that the site is currently in agricultural use and consists of arable farmland which is understood to be managed by tenant farmers.

The application is supported by an assessment of the agricultural quality of the land which comprises the application site. The assessment was undertaken in October 2020, in line with the Ministry of Agriculture, Fisheries and Food (MAFF) method for classifying agricultural land by grade. The grading ranges from Grade 1 being the highest quality to Grade 5 with Grade 3 being split Grade 3A and 3B with 'A' being of higher quality.

Overall, the assessment concluded:

Grade/Subgrade	Area (ha)	% of the land assessed	Sub Total
Grade 2	10.5	15	48%
Grade 3a	23.1	33	
Grade 3b	34.2	49	49%
Other land	1.9	3	3%
Total	69.7	100	100%

There is a slight discrepancy in terms of the site area referenced in the soil assessment and the site area of 70.18ha of the application form. The other land noted is that which is currently woodland or standing water as set out in the site description.

In consideration of the loss of arable farm land, the predominant quality is Grade 3b, however the difference is marginal – 49% Grade 3b / 48% Grade 2/3a. This marginality is magnified when consideration is given to the 15% of Grade 2 land. On this basis, there will be a significant loss of agricultural land which is classified as BMV and is currently in food production.

In terms of agricultural land, the soil assessment was undertaken by a recognised professional. The site assessment included other areas of Grade 4 land in the search area, but they were ruled out for this type of development and other sustainable energy generation projects due to their relationship with the flood plain, clearances required from trees/roads etc reducing available area and proximity to connections and that this combined with viability issues covering ease of dealing with a single land owner in a less constrained portion of land, concluded this site was best for development. These considerations are accepted.

The conclusions of the soil assessment have been a main point of objection in public and councillor objections. However, beyond the fact the land is currently arable land and opinion of the quality of the land no further information has been provided to counter the conclusions of the soil assessment. It is considered that the applicant has used an appropriately qualified assessor and acceptance of the soil assessment on this basis is considered reasonable.

Concerns that permitting this application would lead to the land becoming brownfield land and therefore leading to the land being used for housing or wider development is not given any weight on the basis that such would need further planning applications which will be based on their own merits.

An additional consideration is that the lifespan of the development is 40 years, after which the site can be returned to its function as arable land and this can be controlled by condition.

Public objections have also raised that the loss of the land will result in a loss of farming jobs within the local area. It is noted however, that there will likely be job creation and economic benefits arising from the construction and maintenance of the solar farm to balance this loss.

Whilst this benefit may well not be locally specific, policy does not distinguish between local and wider economic benefits.

Local concern around food security has been raised by public objections. The suggestion that the net value of the solar farm should be measured in terms of national energy production and security against the net value of arable crop production and UK food security given that agricultural land is a finite commodity and food security is equally important as energy security, superficially appears to be reasonable. However, this is ultimately a national level consideration, beyond that of the LPA and this was endorsed at inquiry for a solar farm on arable land reference [APP/B3030/W/21/3279533](#), which noted such '*involve high level political decisions/choices that are outside the remit of an individual decision maker*'

Drawing this all together, the application is supported by an appropriate soil assessment which is considered robust and conclusions accepted. The soil assessment shows that approving the application would result in a loss 33.6ha of BMV arable land. This would result in the loss of food production from the site and wider local economic impact. National guidance is that LPA's should 'encourage' large scale solar farms on previously developed and non-agricultural land where possible. Whilst it is recognised that there are a number of determining factors which restrict the viability of available land for such proposals, such as available connections, flooding, land ownership and landscape designations; that 34.2ha of the site is a lower quality soil classification and ultimately the land would return to arable land, so that the economic impacts and loss of food production are temporary – albeit 40 years, the loss of 33.6ha of BMV land is significant material consideration weighing against the proposals in the determination of the application.

The impact of the development on landscape character, trees, hedgerows and footpaths

The site lies within the National England, National Character Area 72: Mease/Sence Lowlands and is of the 'Village Estate Farmlands' type. National England's Character Area Profile summary of the area sets out:

The arable land-use is a key characteristic, as is the field pattern, which owes much to its enclosure by Parliamentary Act and agreement. The resultant fields tend to be large in size and regular in shape with hawthorn hedgerows. With the intensification of agriculture, the cultural patterns are now being eroded. Some hedgerows have been removed or have become gappy due to poor management

The document sets out key opportunities, notably:

SEO 2: Manage and conserve the woodland habitat of the landscape and plan to expand appropriately scaled woodland cover, particularly in The National Forest, to increase people's access and enjoyment and to secure opportunities to enhance biomass and biodiversity and manage the impact of climate change;

SEO 3: Protect and appropriately manage the historic character, settlement pattern and features of this landscape, in particular its ancient woodlands, veteran trees, landscaped parklands and areas of archaeological interest, including ridge and furrow and,

SEO 4: Protect the overall strong rural, open and tranquil character of this well-ordered lowland agricultural landscape; increase the opportunity to encourage sustainable food production; and enhance access to and enjoyment of the wider countryside for both residents and visitors.

The Site also falls within The National Forest, where a Strategy (2014-2029) exists. The

National Forest states: "The National Forest is right in the heart of the country, embracing 200 square miles of the Midlands. It spans across parts of Derbyshire, Leicestershire and Staffordshire and aims to link the two ancient Forests of Charnwood and Needwood. With a history of coal mining and heavy industry, the landscape is now that of rolling farmland, ancient forests and new planted woodlands.

The site is also covered by the Derbyshire County Character Assessment, which was first published by Derbyshire County Council in 2003 and last updated in 2014. This document identifies the Site as being again within the Landscape Character Type: Village Estate Farmlands

In terms of statutory designations, as set out in the site description, the site is not designated for its value, does not comprise of any registered parks and/or gardens, nor within a 2km vicinity. The landscape forms part of the setting of a number of heritage assets, which are discussed and assessed below. Public Right of Way (PRoW) (Footpath) Lullington FP1 runs north-south within the Site area meeting PRoW (Footpath) Lullington FP2 in the south and PRoW (Footpath) Coton in the Elms FP7 to the north. PRoW (Recreational Route) The National Forest Way runs approximately 1.5km north east of the Site.

At national level, the NPPF paragraph 174 states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- 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;*
- 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 or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Further to this paragraph 175 states:

Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.

At local level the most applicable policies to consider are S1, S2, SD6, BNE1, BNE3, BNE4 and INF7 of the LP1 and SDT1, BNE5 and BNE7 of the LP2 and the Landscape and Trees SPD/guidance documents.

The Site comprises a series of agricultural field parcels, forming an elongated shape running

east to west following the generally regular field pattern and well-maintained hedgerows that have few trees. The site is typical of the landscape character and the existing character of the Site contains many attributes that are strongly representative of the local landscape character. On this basis, the site is considered to make a very positive contribution to landscape character and has good visual amenity where the quality of the existing views is such that there are a few incongruous elements.

The application was supported by a Landscape and Visual Impact Assessment (LVIA). Urban Green were commissioned by the LPA to undertake an independent technical review of the LVIA to consider the likely landscape and visual effects associated with the proposed development.

Based on the Zone of theoretical influence provided by the LVIA and site visits, it is considered the site is highly visible within the immediate vicinity and even more so to the east and the west due to the gentle undulations of the surrounding landscape with views offered of the site from c.1 to 2km away. Due to the tree coverage to the north and development of Coton on the Elms views are curtailed and more sporadic from the north. To the south given the AOD levels views remain, even with the obstructions of Lullington. Views of the site can be found up to 5km away and are geographically extensive. The existing boundary hedgerows would not be affected, and the field pattern would remain as existing. The proposed solar panels, due to their low lying profile would not break the sky line. The lower lying ground of the site is well screened by the existing landscape features.

The landscape character is created from features in its fabric, as per the NCA set out above, the arable land use is a key characteristic but so is the topography, field pattern, which tend to be large in size and regular in shape with hawthorn hedgerows. However, some hedgerows have been removed or have become 'gappy' due to poor management.

The Urban Green assessment found that there were key divergences in assessment outcomes including the significant Major and Major/Moderate adverse landscape effects reported on the landscape fabric of the site, along with the local landscape character, and the Major/Moderate adverse visual effects identified from Footpath Coton-in-the-Elms FP7, Lullington FP2, Grafton House and Coton Road(Lullington Road)

Officers agree with the conclusions of the Urban Green assessment and the development is considered to give rise to significant impacts of major adverse degree to the landscape character given the extent, scale and type of development (loss of arable land).

This impact is considered to remain even upon taking into consideration the effects of the maturing planting associated with the landscape strategy. However, key characteristics noted by the NCA, such as field pattern and shape with hawthorn hedgerows will remain, with the management of the hedgerows now controlled. The retention and improvement of landscape features including field pattern, undulating topography, tree and hedgerow planting and the introduction of a new grass mix beneath the arrays will be of benefit to the landscape fabric of the site as per Urban Green's (UG) assessment.

Visual Impacts

The effects on visual amenity consider the changes in views arising from the proposals in relation to visual receptors including residential properties, highways, Public Rights Of Way, and recreational areas; and the effect on representative viewpoints or specific locations within a specified study area.

The assessment of visual effects undertaken by LLA used 26no locations within the landscape surrounding the application Site. UG acknowledge that these 26 representative viewpoints reflect views from residential properties, footpaths and local roads in the immediate vicinity of the site and the wider landscape.

In terms of visual impact, again Officers agree with the conclusions of the Urban Green assessment in so far as there would not be any significant visual effects for the majority of 26 locations from which views were assessed, which is also the conclusion of the DCC Landscape Architect who responded as part of the wider DCC Policy response. With the exception of the following 5 receptors which UG considered were under-assessed:

1. Footpath Lullington FP1 / Coton-in-the-Elms
2. Footpath Lullington FP2
3. Lullington Road looking south towards the Site and traveling through the Site
4. Grafton House
5. Lady Leys Cottage

Overall, in terms of these receptors Urban Green did not identify any long term significant visual effects associated with the development due to mitigation, however, in terms of FP 1 impacts will remain for the lifetime of the development (40 years) given they are considered to arise from the screening of the solar panels.

Trees, Hedgerows and Footpaths

As set out above, the application site is located within the National Forest. The National Forest is an environmental project seeking to promote tree planting and reinstate a forest within the midlands. Policy INF8 sets out that:

A Within the National Forest, as defined on the Proposals Map, South Derbyshire District Council will work with The National Forest Company and other local authorities and partners to:

- i) Work with Partners to help deliver the National Forest Strategy 2014-2024 and any subsequent Strategy*
- ii) Provide opportunities for diversification of the economy, especially in relation to the woodland economy and tourism, including overnight accommodation;*
- iii) Create an attractive, sustainable environment;*
- iv) Provide a range of leisure opportunities for local communities and visitors: and*
- v) Achieve 33% woodland cover in the National Forest.*

Landscaping will generally involve woodland planting, but can also include the creation and management of other appropriate habitats, open space provision associated with woodland and the provision of new recreational facilities with a woodland character. The appropriate mix of landscaping features will depend upon the setting characteristics, opportunities and constraints that individual sites present. The District Council recommend that early discussions are held with the National Forest Company. Further information is available from the National Forest Company's Guide for Developers and Planners.

Unlike for residential schemes of a certain size, there is no policy requirement of an identified amount of woodland planting for commercial schemes.

As part of the proposals, the LPA understands there has been considerable pre application discussions between the developer and the National Forest Company who are the stewards of the National Forest and a statutory consultee in this instance. From these discussions the NFC has sought amendments to the scheme.

As part of the proposed screening of the development, there is considerable screening in terms of planting of woodland belts and planting of new and thickening of existing hedgerows. The NCA notes the landscape characteristic of hawthorn hedgerows and consequently the planting and retention of such features is welcomed. In terms of the woodland planting, the proposal would result in an additional 5.6ha of woodland, in the form of woodland belts linking existing pockets of trees where possible. The amount of planting has been increased by the developers in response to requests from the NFC who now accept this level. In addition, the applicant accepts the requests of the NFC in terms of 2m centre planting, widening belts to 15m to provide meaningful connections and accepts the phased approach to implementing the landscaping as solar panels come online to provide visual mitigation and realise the benefits of the planting sooner.

Further to this the NFC notes that the application proposes to actively manage the existing 0.9hectares of woodland and proposes new grassland habitat across the site as well as nearly 3km of new native hedgerows, which are therefore inline with policy INF8 as creation and management of appropriate habitats.

With regards to the loss of the two trees proposed the woodland planting, belts, their location in connecting existing trees, outweigh this loss. Whilst this is considered not to ultimately resolve the landscape impacts identified above, such planting is considered as a significant benefit. In addition, securing the retention of the existing and proposed landscape features for the 40 year period long term management plan including for all hedgerows and woodland belts to ensure effective screening is also considered a benefit. To ensure tree protection during the construction period a tree protection plan condition will be attached to any approval of the development.

Lullington Public Footpath No. 1 is directly affected by the proposed work, and Footpath No.2 leads into the south of the site. DCC PRoW team did not raise any objection to the proposal as both the legal line of the path and the walked line have been protected within the proposed layout. Conditions will ensure that they remain open, unobstructed and no disturbance to the path surface. With regards to planting, the PRoW team stated that hedges must not be planted within one metre of the edge of either path, which will be conditioned.

In conclusion, NPPF and Local Plan seek to recognise, protect and manage the countryside and landscape character balancing these considerations. It is considered that whilst a valuable countryside landscape, this is within the context of no specific policy designation for such value. It is considered that it is inevitable that located in a countryside location a solar farm of this scale would have some adverse landscape character and visual impact. Whilst not designated, the strong value of the landscape to the local population in terms of social, environmental and economic reasons is noted and provides additional context when weighing this matter.

In terms of landscape character, the elements set out by the NCA and local objections as key to the landscape character are land use/cover, field pattern, topography and hedgerows. Whilst the proposed development undoubtedly impacts the landscape character through the change of land use, the other key elements remain and in terms of the hedgerows improved. This is seen to provide some benefits, especially when considered in terms of the National Forest and biodiversity, however, given the sheer scale and extent of change from arable land use, the adverse impact to landscape character is considered significant. In terms of visual impact, the views afforded by users of the FP1 will be greatly diminished for the period of the development (40 years). Which is not only considered to result in visual amenity impacts but also local tourism as outlined in objections.

A consideration is the lifetime of the scheme, whilst at 40-years is significant, ultimately once the solar farm was decommissioned, there would be no residual adverse landscape effects.

On balance, the proposal has been found to in principle meet BNE5 criteria iii) in so far as it is unavoidable given wider considerations. Notwithstanding this, such means that the development will be located within the countryside, where juxtaposition of a proposal at this scale will be greater and impact to some degree inevitable. In assessing this impact, there is no policy designation to elevate the value of the landscape. However, it is considered that the proposal in this landscape would be uncharacteristic and obtrusive. Mitigation through screening is proposed and whilst it is inline with identified characteristics by the NCA in part, helping meet SEO2 set out above, or with wider objectives such as the National Forest and results in biodiversity benefits discussed below, the mitigation is not sufficient to remove all harm to the landscape. The harm is tempered by the temporary nature of the development, but again given this is 40 years, the value assigned by local objectors and possible impact to tourism, this is insufficient. Given this harm, the proposal is considered to be in conflict with policy SD6, NPPF paragraph 174 and material consideration SEO4 of the NCA for this Landscape. This identified harm and the subsequent conflict with the Local Plan is afforded significant weight against the proposal

The impact of the development on designated heritage assets and archaeology

The site does not contain any designated or non-designated heritage assets, however is within the vicinity of a number of assets and given its scale is considered to form part of their setting. Therefore the proposed development has the potential to impact these assets, primarily from views to and from the assets. The heritage assets identified as being impacted are as follows:

- The Church of All Saints, a Grade II* Listed Building (c.385m south of the site)
- Churchyard walls and gates to All Saints Church, a Grade II Listed Building (c.385m south of the site)
- Village Hall, Lullington, a Grade II Listed Building (c.385m south of the site)
- Lady Leys Farmhouse, a Grade II Listed Building (c.350m west of the site)
- Woodfields Farmhouse, a Grade II Listed Building (c.580m east of the site)
- Raddle Farmhouse, a Grade II Listed Building (1.28km west of the site)
- The Old School House, Coton in the Elms Grade II Listed Building (c. 1.1km north of site)
- Manor Farmhouse, Coton in the Elms Grade II Listed Building (c. 1.1km north of site)
- Lullington Conservation Area (c.300m south of the site)
- Grafton House, an unlisted building of local heritage interest

The proposed development consists predominantly of the solar panels of a maximum height of 3m. The larger structures, the inverter equipment buildings etc, are considered to have been located away from the more sensitive assets and visual receptors.

Historic England have raised no objections to the proposals or the robustness of the Heritage Statement, leaving determination to the local level.

Taking each asset listed above in hand, Officers in consultation with the LPA's Conservation Officer consider that:

Church of All Saints, Churchyard, Village Hall & Lullington Conservation Area

With regards to the Church of All Saints and Lullington Conservation Area (CA) due to the low lying nature of the proposed development impacts to views of the Church, and specifically its spire from the site area would be minor and not amount to harm. With regard to the Lullington Conservation Area (CA), the proposed development would be visible in views of the CA as

approached from the north through the site area. However, views from the CA of the proposed development would be limited due to the nucleated layout and relatively intimate character of the village. In addition, a foreground of agricultural fields would remain, which will be conditioned, to provide a context and edge to the village and the proposed hedgerow and tree planting would provide effective and robust screening along much of the southern boundary.

In terms of the proposed woodland planting itself and impact of such on the landscape and setting of heritage assets, such is considered not to be out of character given the area has seen modern woodland plantation (Coton Wood c.1995) and also wider designated objectives of the National Forest seeking to reinstate tree planting to reflect historic coverage in this area.

Woodfields Farm

In terms of Woodfields Farm, the setting already contains a number of several large modern portal framed agricultural buildings, which obstruct views of the site from this asset and represent a diluting of the assets setting in support of operational development. Due to orientation the panels would be seen from the surrounds of the farm edge on, which is considered to reduce their visibility, albeit slightly. The proposed development would result in significant hedges and tree planting along the eastern boundary, reducing visibility. Given the distance between the asset and the proposed development, the immediate development surrounding the asset remains as agricultural fields. Overall, it is concluded that the proposed development would not harm the setting of Woodfields Farm in any way which affects its special significance as a listed building.

Lady Leys Farm

Lady Leys Farm to the west of the application site is set back from the road via a long driveway and located near the top of a slight rise making it reasonably prominent from Lullington Road, albeit at a distance of some 350 metres with little intervening screening. The farmhouse can be seen amongst a couple of mature trees with the lower forms of agricultural buildings just visible over the rise. The driveway and older agricultural buildings form the immediate context and setting within which the building would be experienced and appreciated, although wider agricultural land also provides context. The farmhouse faces its main elevation southeast, angled slightly away from the application site but the property would have good views over an agricultural landscape with which it is associated. The proposed development would be visible from the farmhouse. Consequently, it is considered there would be some minor adverse impact upon the setting of this asset. The harm would be at the lowest end of the 'less than substantial' scale as the bulk of its significance gained via setting is from its immediate setting, nearby fields, the driveway approach, visibility from the lane and relationship to its yard at the rear (west) all of which would be unaffected.

Raddle Farm

Raddle Farm and Poplars Farm are both located at greater distance and beyond the high ridge to the west of Lullington Road. It is considered that there would be no relationship between these assets and the site and no impacts upon their significance.

Manor Farm and the Old School House

Given the presence of Coton Wood between Coton in the Elms and the site, it is considered that there is little relationship to Manor Farm House and the Old School House and the site does not form a meaningful component of their settings.

Grafton House

Grafton House an unlisted building located on the northern side of the site. Given the current views afforded to Grafton House, it is considered to experience a level of harm to the

contribution of setting to its significance. However, the proposed planting here is considered suitable mitigation.

In addition to these designated heritage assets the main other consideration is the former parkland of Lullington Hall. The Hall itself is not a listed building and its parkland was extended through several phases, not originally extending north of Coton Lane. Overall, successive amendments result in the conclusion that the proposal would not harm this remnant parkland as a non-designated heritage asset.

The 'Coffin Trail' is noted due to its historic presence, however it is not considered to be a designated or non-designated heritage asset. Its purpose as a PRow has been considered above, and ultimately will remain accessible. The views offered of the conservation area from the site have been considered above.

In terms of impact on the identified assets it is concluded that some harm would arise from the impacts on the wider setting of Lady Leys Farm and Grafton House, the impacts on other assets are all assessed as neutral so even when considered holistically the conclusion would be towards some harm.

In terms of non-visual impacts, noise and odour, it is considered that there would be no operational impacts arising which might affect the significance of heritage assets via their settings.

In terms of below ground assets, Derbyshire County Council Archaeologist was consulted who raised no objection subject to conditions which require suitable field evaluation and subsequent recording depending on the results. Such conditions and informatives would be attached to any permission.

Overall, it is considered that the identified harm would be 'less than substantial' and subsequently at the lower end of the scale. Notwithstanding this, having regard to section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 the test set out in paragraph 202 of the NPPF is engaged. It is acknowledged that the test is a weighted one in which any benefits must substantially outweigh the harm.

There are a range of public benefits arising from the proposed development, principally that of low carbon energy creation from a renewable source sufficient to power 15,000 homes per year. This is a significant environmental benefit of the scheme, given the context of a 'climate emergency'. Furthermore, the proposed development would result in a significant enhancement biodiversity net gain on site and additional woodland planting in support of the National Forest objectives, which can be managed and controlled by condition so that this benefit can be realised for the lifetime of the solar panels – 40 years. In addition, it is also considered that there would be a net creation in jobs and due to construction spend economic benefits that would likely benefit the District, albeit temporary.

In line with the conclusions of the Conservation Officer as set out in the consultation comments, it is considered that these public benefits outweigh the less than substantial harm in this instance and can be sufficiently controlled to ensure they arise.

Comments regarding conditions seeking details of the posts and CCTV cameras to minimise visual prominence and ensuring fencing of a vernacular style (fence post and wire) will be added.

For the reasons set out above, the proposed development having due regard to the relevant Sections of the Planning (Listed Building and Conservation Areas) Act 1990 is considered to be on balance in accordance with the Local Plan and NPPF in regard to heritage impacts.

The impact of the development on biodiversity and ecology

The site is predominantly arable land which is considered to have a low ecological value, however there are several hedgerows, trees, woodland and water bodies either within the site, at its boundaries or nearby that may offer habitat, foraging or commuting potential for various species.

The Environment Act 2021 enshrines biodiversity net gain as part of new development into law. The Act sets out the following key components to mandate BNG which include:

- Minimum 10% gain required calculated using Biodiversity Metric & approval of net gain plan
- Habitat secured for at least 30 years via obligations/ conservation covenant

BNG is tested by using a industry standard metric – Biodiversity Metric 3

NPPF Paragraph 180 section D states: *“development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate”.*

Local Plan Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible. Policy BNE7 manages trees, woodland and hedgerows. Where new planting is proposed on site these will be supported and the main concern is to ensure suitable tree species. Policy INF 7 sets out that SDDC will conserve and enhance green infrastructure 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;*
- iii) Promote the appropriate management of features of major importance for wild flora and fauna;*

Further local policies relevant for consideration are S1, S2, SD6, BNE4 of the LP1 and policies SDT1, BNE5 of the LP as set out above.

The application has been supported by a range of assessments and reports on the ecological value of the site and its constituent elements and habitats, fauna activity such as bats, badgers and birds. The elements of high ecological value identified hedgerows, trees, woodland and water bodies are proposed to be retained. The Tree Assessment shows the removal of two trees and hedgerows to enable the new access point. However, the proposal seeks to provide significant woodland planting in the form of belts which act as landscape buffers and corridors as discussed. Impacts on protected species will be mitigated through the offsetting of site infrastructure to identified habitats as referenced in the submitted Ecological Appraisal.

The application package has been amended and updated in response to a number of comments from the National Forest Company, Derbyshire Wildlife Trust, Natural England and Environment Agency.

A Biodiversity Net Gain Assessment using the recognised Defra 3.0 metric demonstrated that

the proposed solar farm development will result in a measurable overall net gain in biodiversity amounting to +269.69% habitat units and +46.98% hedgerow units. DWT supported this enhancement. In terms of the proposed planting the 5.6 hectares was welcomed by the National Forest as this met the figure requested at pre application discussions.

The level of increase is considered a significant benefit of the proposed development. In addition, the biodiversity and ecological benefits can be sustained over the lifetime of the development through the ongoing management of the landscape which will be conditioned.

It is considered that the final landscape management plan will need to explain the long-term design objectives, management responsibilities and maintenance schedules for all landscape areas. The management plan will need to take account the phased approach to the implementation of the landscaping, and the condition will need to require that the landscape management plan is carried out in accordance with the approved details.

Overall, with regards to BNG the proposal accords with the Environment Act, objectives of the NPPF and policies BNE3, BNE7 and INF 7 of the LP1.

In terms of impacts on fauna, DWT concluded that the proposed development is unlikely to impact on great crested newt, however precautionary measures for all amphibians will be added in line with consultation comments. The provision of mammal gaps in the perimeter fencing is also required to maintain access for Badgers and Brown Hare, a Species of Principal Importance (priority species), which has also been recorded from the site. Such gaps will be included in the proposed fence design. DWT raises no objection subject to this mitigation being conditioned, and the application is considered to meet the pertinent policies.

There has been concern raised by the Designing Out Crime Officer, whilst this is noted, on balance it is considered that greater weight should be given to biodiversity and the size stipulated should be provided due to the types of wildlife in the area and that the other security efforts advanced and to be secured via condition should effectively secure the site. DWT did note that an impact to Bats but there was broad details of appropriate bat mitigation, compensation and enhancement measures are provided in sections 6.1 and 6.2 of the Bat Survey.

Given the protection afforded to bats, amphibians and badgers various informatives will be added to the decision to reflect the wider protection afforded to these species.

Natural England raised possible impacts to the River Mease SAC and SSSI, but this would arise from water management, so this is addressed below.

For the reasons above, with the implementation of the mitigation and habitat creation/enhancement measures recommended in the supporting information alongside the proposed landscaping and its ongoing management, all which will be conditioned, the application is considered in compliance with relevant policies and guidance.

The impact of the development on amenity and highway safety

Whilst the site is positioned within the countryside not immediately adjacent to settlement boundaries, there are a number of neighbouring rural businesses and residential dwelling houses. The closest of these are (understood to be known as) Homes Farm c.160m south east of the site, dwellings in Lullington along Dag Lane and Lullington Road c. 380m south of the site, CJ Shaw Dairy Farm c.530m east of the site, a Farm and Lullington Crossroad caravan site c.150m north of the site, dwellings nearby the junction of Raddle Lane and Lullington Road

located immediately north of the site c. 50m and Lady Leys Farmhouse c. 350m west of the site. However, given the scale of the development and possibility of wider impacts assessment has included a broader range to understand impacts where necessary. Furthermore, the application site is located adjacent to a number of local roads which will be affected by the proposal.

On this basis the impact of the development on the amenity of these premises and highway safety needs to be considered. Pertinent Local Plan policies are S1, SD1 and SD6 of the LP1.

Based on review of the consultation comments and submitted information Officer's consider the primary possible impacts to residential amenity to be the potential exposure of existing sensitive receptors to new sources of dust, noise and disturbance during construction and noise and solar glare during operation.

The site will be unmanned and operational traffic is expected to be 1 van a month. This has been accepted by the Highways Authority. In response to objections made, the proposed development is not considered to unacceptably impact any residential dwellings outlook and any impact to private views are not a planning matter.

In terms of the construction impacts identified; the application was supported by a draft construction environment management plan (CEMP). Which was updated to respond to comments made by various consultees specifically, Derbyshire Highways, Natural England and the Environmental Health Officer. The draft CEMP provides indicative methods to maintain the cleanliness of highways, site safety, control dust and emissions, noise and vibration, contamination, manage waste and protect biodiversity. The construction period is anticipated to start in 2022 and last 6 months. The working hours are expected to be standard with notification made to SDDC before any emergency works.

Natural England noted necessary mitigation needed to protect the River Mease SAC and SSSI which has been satisfactorily included.

The Environmental Health Officer accepted that the provisions set out in Sections 3, 7 and 8 of the Construction Environmental Management Plan (working hours, dust and noise) if implemented can suitably manage nuisance from noise, vibration and dust issues.

Wider concerns raised in public consultation related to the proposed construction traffic and noise arising from such movement. Concern has been raised regarding the routing given the width of lanes around the site and number of HGV expected which is c.860. A degree of disruption is expected to arise from the construction of the development, albeit temporary. In terms of traffic movements, the construction access to the site will be from the unnamed road along the site's eastern boundary, and there would be the use of a temporary construction compound adjacent to the site at this location. This access point is c.580m north east of the extremities of Lullington, and surrounding local farms to the north and east. This access will then serve as an operational access for maintenance vehicles at the end of the construction phase. The layout shown would enable site traffic to enter and exit the Site in forward gear via dedicated turning and parking areas provided within the Site.

The draft CEMP indicates routing traffic from this point eastwards towards the A444 and the A42 and thus away from Lullington and other villages in the area. A key junction in this indicative route is that of a hairpin bend nearby the site. Officers have been to site to consider, and it is indeed a tight bend which would require vehicles travelling south to in effect turn north east.

No objection was raised by Derbyshire Highways Authority in terms of the proposed development, the draft CEMP and construction routing. They noted that:

It is considered that the likely HGV movements during the construction period would not have a material impact on the operation of the local road network in the vicinity of the site.

But subsequently sought to attach pre commencement conditions requiring the access details for construction purposes including signage, visibility sightlines and other safety measures and scheduling and signage to ensure deliveries by HGVs shall not meet between the road network and A444, both once agreed to be implemented in full prior to any works.

This approach of controlling highways matters pre commencement means that highway safety and disruption will have to be satisfactorily agreed prior to any works commencing. It is considered that it would be unacceptable to route any HGV traffic through Lullington, Coton on the Elms and Netherseal, and such would not arise given the conditions proposed.

Overall, whilst there is going to be an increase in traffic on the local road network, this will be focussed on a strict route to and from the site from primary roads and will be for a temporary period. For this reason the impact is not considered to be significant and the road network has been deemed by the highways authority to be able to satisfactorily manage deliveries and HGV movements during the construction period subject to condition.

In terms of operational impacts, there are a number of nearby properties and adjacent roads and through PRowWs as set out above. As noted above the proposed solar panels are 3m in height maximum and there is considerable tree and hedgerow retention which immediately reduces visual impact. This is supplemented by significant additional hedgerow and tree planting creating woodland belts to the north east, east, south east, south, along Lullington Road and to the north west towards Raddle Lane, where there is the potential for impacts on visual amenity. Consequently, whilst there will be a visual impact to those properties closest to the development is not considered to be unacceptable to the overall amenity of the occupiers.

It has been noted that there are a few significant local events which support the local economy, and also bring an additional unusual level of vehicular traffic to the area. Officers would expect reasonable endeavours from the developer during the construction phase to schedule vehicle movements around these activities.

Furthermore, the application was supported by a solar glare assessment. The document outlines that the “panels themselves have been designed to reflect as little light as possible in order to maximise operational efficiency and output and have therefore been proven to have a negligible impact in terms of glint or glare”.

The solar glare assessment considered surrounding dwellings and adjacent roads. In terms of the assessment analysis considered dwellings that:

- Are within one kilometre of the proposed development;
- Are located south of the most northern panel; and
- Have a potential view of the panels.

Out of the dwellings identified one was considered to be impacted, however this was not considered to be significant, given screening, orientation of the dwelling, distance and meteorological conditions that could reduce this impact, which is accepted. Therefore, in this case, due to the distance between the panels and the nearest residential properties, the flat nature of the site and existing screening, any glint or glare impact is not considered to be likely to be significant.

No objection was raised to the proposal by Derbyshire County Highways in terms of solar glare impacts to any and all road users nor was the proposed wider hedgerow and tree planting and screening, beyond that adjacent to the access points which will be maintained, objected to due

to highway safety as suggested in objections. With regards to wider livery businesses and cyclists, the route will be a single route in and out, supported by a signage strategy demarcating such. The wider roads will remain and as such the impact to these users is not considered unacceptable.

The Environmental Health Officer did not raise an objection in terms of operational noise nuisance subject to a condition ensuring the noise mitigation measures in section 5.1 (Acoustic Barriers) of the Tetra Tech Noise Assessment (dated April 2021) which will be added.

In respect of anti-social behaviour the CCTV equipment and the comments from the Designing Out Crime Officer a condition will be added to ensure details of the specifics of monitoring of the site in respect of crime and neighbouring amenity considerations are provided for the lifetime of the development.

Subject to conditions and informatives it is considered that the development is in compliance with the above listed policies.

The impact of the development on Flood Risk and water management

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. The FRA does highlight small, isolated areas of at risk of medium and high risk of surface water flooding.

The River Mease Special Area of Conservation (SAC) is located 1.78km north of the site. The site is also within the Impact Risk Zone (IRZ) for the river Mease Site of Special Scientific Interest (SSSI).

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

The solar panels are fixed on frames which have limited intrusion into the ground, and as such the majority of the site remains permeable, except for the larger elements. The surface water drainage strategy will therefore be managed primarily through infiltration into the soil as currently occurs. The solar panels are supported on posts that elevate the panels above ground level and, consequently, the development is not affected by this isolated 'medium' and 'high' flood risk.

It is considered, the proposed development has the potential to affect the River Mease SSSI and SAC, through impacts to the nutrient neutrality of watercourses that flow through (West Brook) or near to the development and into the River Mease, resulting in possible nutrient pollution. Furthermore, there is also possible impacts that could arise from pollution during the construction phase.

Given the possible impact of the SSSI/SAC, the LPA as the competent authority is required to undertake a Habitats Regulations Assessment (HRA) as per the Conservation of Habitats and Species Regulations 2017 (as amended) to assess and mitigate against any significant affects from both operational and construction phases. This approach was also suggested in the comments from Natural England and advised the use of planning conditions to secure any mitigation measures.

This matter was first considered by the LPA as part of both EIA Scoping exercises that were undertaken to consider the scheme itself and in combination impacts alongside wider development in the area. As part of this scoping, the Habitat Regulations were considered.

It is considered that given that the site comprises a tributary which connects to the River Mease catchment, any possible impacts to this element and specifically its nutrient neutrality. The primary impacts are considered to possibly arise during construction and given the

proposed infiltration method of drainage proposed from surface water drainage and run off. Consequently, a condition would need to be imposed for a construction management plan to prevent adverse impacts on the watercourse during construction, including surface water strategy, pollutant handling and soil management during and groundworks. Furthermore, given the proposed infiltration method of drainage proposed a condition will be imposed requiring surface water to discharge to SuDs with sufficient capacity to manage any run off. On the above basis, compliance with the proposed condition would ensure that construction works on the site would not adversely impact on the integrity of the River Mease SAC.

The application was supported by its own HRA which in turn resulted in the drainage strategy of infiltration being supplemented by mitigation in the form of inception swales along the northern and western boundaries of the site where surface water from the site discharges to the surrounding watercourses. In addition, proposed impacts arising from the construction phase were to be mitigated via a Construction Environment Management Plan (CEMP). This is inline with the LPAs assessment above.

The proposal would not result in any foul drainage.

The measures set out are considered by the LPA to be appropriate mitigation from which it therefore can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017, the NPPF and Policies S1, S2, SD2, SD3, SD6, BNE3, BNE4 and INF7 of the LP1 of the SDDC Local Plan.

The proposed drainage strategy was also subject to consultation with the Environment Agency and the Local Lead Flood Authority (LLFA). In response to initial concerns, further information has been provided to the LLFA and EA, which subsequently satisfactorily addressed all concerns. The LLFA or EA do not object subject to conditions controlling the detailed drainage strategy, its maintenance and control of surface water during construction, which align with the conditions identified via the HRA above.

In response to local concerns about the opinion that arable crops increase the drainage capacity of the land and that the panels will increase the impermeability of the land leading to run off issues, the panels will be fixed to frames piled into the ground and such a structure will give a minimal increase in impermeable area and a negligible increase in the rate and volume of surface water runoff generated from the proposed development during storm events. The swales proposed would be installed across the site area to intercept and retain both any additional runoff and a portion of the existing runoff from the agricultural land. In addition, the proposed development would result in a significant increase in tree planting.

Overall, in terms of flood risk, water management and drainage subject to conditions and informatives it is considered that the development is in compliance with the listed policies.

The impact of the development on East Midlands Airport Operations

The most applicable policies to consider are S2, SD6 and INF5 of the LP1. INF5 seeks to ensure that new development does not detrimentally impact the safe operations of East Midlands Airport range of service including physical airport and flight path areas. The proposed development was consulted on by East Midlands Airport who raised no objection to the application.

Wider considerations

Given the quantum of objections a range of matters were raised. Several raised the toxicity of solar panels during manufacture and how they will be managed once the operation ceases. The Environmental Health Officer did not raise such points in objection to the application. It is accepted that there will be carbon consumption in the creation of the panels. However, the proposed solar farm is anticipated to generate electricity sufficient to power 15,000 homes annually. To power such via energy created from fossil fuels is considered to have a much greater level of carbon consumption.

The method and control of materials in manufacture and recycling will be controlled by wider environmental health legislation.

Lastly, the local plan promotes the use of solar panels on new development.

The permission of the solar panels will be temporary for 40 years after which the site will be decommissioned. This will again give rise to possible disruption and nuisance. Conditions will be attached to ensure that prior to any decommissioning not unacceptable impacts will arise and best practice at that time in terms of recycling of materials is met.

Procedural Matters

A number of public objections have raised concerns with the publication of application, level of consultation by the applicant and accuracy of information. The application has been publicised and all comments considered in line with national legislation. Submitted information has been consulted upon and reviewed by Officers, and where necessary clarified to ensure it is sufficiently accurate to determine the application. Elements of the ecology reports were redacted inline with wider legislation to protect protected species. The information was shared in full with relevant consultees, namely, Derbyshire Wildlife Trust, who raised no objection to the proposal subject to conditions.

Conclusion & Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In terms of the Local Plan, this is considered to comprise SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

SDDC does not have allocated sites for such as the proposed development. Each application will be based on its own merits inline with Section 38(6) as set out above and the recommendation for this application is a planning judgement.

It is considered in this instance that the benefits weighing in favour of the application are as follows:

- Low carbon energy generation capable of powering 15000 homes
- Biodiversity Net Gain amounting to +269.69% habitat units and +46.98% hedgerow units
- Additional woodland planting/Creation of woodland belt totalling 5.6ha across the site
- Additional hedgerow and wildflower planting
- Temporary economic benefits in terms of net job creation and construction spend

It is considered in this instance that the most significant impacts weighing against the application are as follows:

- Loss of 33.6ha of Grade 2/3a quality agricultural land

- Impacts to landscape character and visual amenity

Furthermore, it is noted that during construction there will be additional traffic and activity in the area which could give rise to negative impacts to amenity, and whilst considered in line with the NPPF there will be less than substantial harm to heritage assets.

Overall, it is considered that given the application is outside of the settlement boundaries set out in Policy SDT1, it has been assessed against Policy BNE5 Development in Rural Areas. It is not considered that this application is in conflict with Policy SDT1, as whilst development is expected within settlement boundaries, the existence of BNE5 is an acceptance in the Local Plan that development may come forward outside of these boundaries.

The proposal has an electricity generating capacity of 50MW produced by renewable sources, enough low carbon electricity sufficient to power 15,000 homes per year. This is a significant environmental benefit of the scheme, given the context of a 'climate emergency' as recognised in legislation and energy policy. Significant weight is afforded to this benefit.

Furthermore, the proposed development would result in a significant enhancement biodiversity net gain on site and additional woodland planting of 5.6ha and creation of other suitable habitats in support of the National Forest objectives, which can be managed and controlled by condition so that this benefit can be realised for the lifetime of the solar panels – 40 years. Moderate weight is afforded to this benefit.

It is considered overall, that the proposed development would result in some economic benefits predominantly arising during the construction period, which whilst accepted as not being within the immediate locality, would result in a net creation of jobs and construction spend that would likely benefit the District. Given the temporary nature of these benefits and local impacts, limited weight is afforded to these benefits.

For the reasons set out above the proposed development is considered to meet criteria iii. of BNE5 in so far as site selection evidence has sufficiently discounted other sequential sites, spatial policies and allocations focus other types of development within settlement boundaries and in combination with the developments scale it is considered unavoidable. Notwithstanding this, such a large-scale development in the countryside gives rise to a range of spatial considerations principally in this case the loss of agricultural land. Policy and guidance direct such development towards areas of lesser quality agricultural land (3b and below). In this instance, the application site is predominantly lesser quality agricultural land, however this is marginal (49%/48%). Such a substantial loss of BMV agricultural land will have effects on the local economy and food security, with the latter being significant, albeit for a temporary period. It is considered that the implications of such would be detrimental and weigh significantly against the development proposals in the balance.

Policy SD6 of LP2 sets out that the Council will support renewable energy proposal after appropriate consideration of a range of considerations and no unacceptable impacts. For the reasons set out above, the proposed development is considered to conflict with this policy in so far as it gives rise to significant adverse impacts on the landscape character of the area. However, for the reason set out above, it is considered that the proposal does not give rise to unacceptable impacts in terms of ecology, historic environment, local amenity, or safety concerns, and is therefore in line with these policies in that regard.

Given the degree of the impact to the landscape, and protection afforded to such in relevant sections of the NPPF and NPPG means that this conflict is afforded significant weight against the proposed development.

With specific regard to local amenity, the act of construction and associated activities and traffic is considered to give rise to possible impacts and will undoubtedly give rise to a noticeable increase level of traffic. However, the impacts have not been found unacceptable by consultees subject to conditions, the traffic impacts will be focussed on a specific route and overall the construction period will be temporary. On this basis, the impact is not considered to be significant and subject to conditions acceptable.

With specific regard to the historic environment, there will be a change to the settings of the heritage assets. This has been assessed to result in less than substantial harm at the lower end of the scale. This harm has been considered with due regard for Section 66 and 72 of the Act and great weight has been afforded to the protection of the assets. In this context, it is considered that the imperative to tackle climate change, as recognised in legislation and energy policy, there are very significant benefits that clearly outweigh the temporary and less than substantial harm in this instance.

With specific regard to the River Mease SAC and SSSI a HRA has been undertaken and the measures set out are considered by the LPA to be appropriate mitigation from which it therefore can be ascertained that the proposal will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitat Regulations 2017.

Overall, the proposed development will give rise to significant impacts to the local landscape in terms of its character and visual amenity and result in a significant loss of BMV agricultural land. However, it is considered that this impact would not significantly and demonstrably outweigh the benefits as outlined above that would arise from the proposed development.

For these reasons, on balance, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG, and 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.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings 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.

Site Location Plan - Plan Ref 1 June 2021

Proposed Site Layout Plan – Plan Ref 2 V3 June 2022

Proposed Access Plans;

- Swept Path Plan – Eastern Access 21053 C-600 Rev.P03 December 2021
- *Visibility Splay Plan – Eastern Access Plan 21/11/2021 December 2021*
- Swept Path Plan – Western Access 21053 C-601 Rev.P03 December 2021
- *Visibility Splay - Western Access Plan 02/12/2021 December 2021*

Proposed technical drawings:

- Lullington CCTV Pole Details Plan Ref 5 June 2021
- Lullington Conversion Unit Details Plan Ref 6 June 2021
- Lullington Fence Details Plan Ref 8 June 2021
- Lullington Mounting Structure Details Plan Ref 5 June 2021
- Lullington Substation and Control Room Details Plan Ref 9 June 2021

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

3. Prior to the commencement of any development on site including site clearance, details of the final layout and amount of PV panels shall be submitted to and agreed in writing by the Local Planning Authority.

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

4. Prior to the commencement of any development on site including site clearance, details of the proposed cables under Lullington Road (Caton Road) shall be submitted to and agreed in writing by the Local Planning Authority.

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

5. The Local Planning Authority shall be notified in writing, within 5 working days, of the date of the first export of power from the site. This permission, **with exception of the DNO substation**, expires 40 years from the date of the first export of power or 6 months after the solar panels on site are no longer being used for the production of energy. After this date, the site shall be reinstated to arable agricultural land in accordance with a Decommissioning Scheme that shall have first been submitted to and approved in writing by the Local Planning Authority prior to the expiration of this permission.

Reason: The application has been assessed and determined on this basis.

Access and PROW

6. Prior to the commencement of the development hereby approved details of the safe management of the public rights of way running through the site during the construction

period shall be submitted to and approved in writing by the Local Planning Authority. Information boards should be provided at suitable points at the entrance and sections of the PROWs crossing the site in respect of the proposed development for its construction period with details of this also submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of preservation of the public rights of way and in the interests of public safety during the construction period of the development.

Archaeology

7. Prior to the commencement of the development hereby approved a Written Scheme of Investigation for archaeological work shall be submitted to and approved by the local planning authority in writing. No development shall take place until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions;
 - 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.

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved

Reason: In the interests of archaeology and designated heritage asset protection, conservation and recording.

Construction and Highways

8. 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);
- vi) Details of an Unexploded Ordnance Survey;
- vii) Details of community engagement arrangements and complaints procedure;
- viii) Details of a 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;
- xiv) Details of measures to remove/prevent re-colonisation of non-native species; and
- xv) The appointment of an Ecological Clerk of Works to oversee the works and approved monitoring and compliance arrangements.
- xvi) Details of specific measures to ensure no impact on the nutrient neutrality of the River Mease SAC and SSSI itself or Zone of Influence.
- xvii) Details of a soil handling and management strategy to ensure there are no unacceptable impacts to the quality of the existing soil and ensure no nutrient run off into the River Mease catchment.
- xviii) Access and protection measures around the construction site for pedestrians, cyclists and other road users including arrangements for directional signage on the adjacent public right of ways and roads which must remain open at all times unless otherwise agreed

An independent ecological report shall be submitted in writing to the Local Planning Authority at the end of each identified stage of construction summarising the works undertaken.

The Proposed Development shall only be carried out in accordance with the approved CEMP.

Reason: To safeguard residential amenity and protect areas of nature conservation interest.

9. 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.

10. No development, including preparatory works, shall commence until the accesses for construction purposes have been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall also include appropriate visibility sightlines and measures for warning other highway users of construction traffic entering or emerging from the site access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use.

Reason: To ensure safe and suitable access for all users, in the interests of maintaining highway efficiency and safety, recognising that even initial preparatory works could bring about unacceptable highway safety impacts.

11. The Construction Access Statement (CAS) submitted with the application (Rossi Long, June 2021) is to be updated to include details of how deliveries by Heavy Goods Vehicles (HGVs) will be managed to ensure that incoming and outgoing HGVs do not meet on the road network between the site and the A444. In addition, a signing strategy should be included for construction vehicles from the A444. The updated CAS is to be submitted and approved by the Local Planning Authority. Once approved the details included in the CAS shall be fully implemented prior to commencement of the works and maintained throughout the construction and decommissioning periods.

Reason: In the interests of Highway Safety

12. Prior to the commencement of development, including preparatory works, the applicant's representative and a representative of the Local Highway Authority shall inspect the construction traffic route and again after construction works have been completed so that any resultant damage can be rectified by the developer.

Reason: In the interests of Highway Safety

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

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

14. 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

15. Before the access is first used, visibility splays shall be provided as shown on
- Swept Path Plan – Eastern Access 21053 C-600 Rev.P03 December 2021
 - Visibility Splay Plan – Eastern Access Plan 21/11/2021 December 2021
 - Swept Path Plan – Western Access 21053 C-601 Rev.P03 December 2021
 - Visibility Splay - Western Access Plan 02/12/2021 December 2021

and thereafter be retained in the approved form. Notwithstanding the provisions of Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the area of the visibility splays.

Reason: In the interests of Highway Safety

16. Prior to the first use of the development hereby approved for the generation of electricity the construction details of the maintenance track as shown on drawing Proposed Site Layout Plan – Plan Ref 2 V3 June 2022 as received by the Local Planning Authority on 13th June 2022 6th July 2021 shall be submitted to and approved in writing by the Local Planning Authority. The details shall include no dig solutions where proposed in the vicinity of root protection areas of trees and hedgerows or as otherwise advised due to archaeological remains. The maintenance track details shall be implemented on site on a prior to first use of the development basis and maintained in good working order for the lifetime of the development thereafter in accordance with the approved details.

Reason: In the interests of highways safety during the construction period of the development hereby approved.

17. Other than the storage compound shown on drawing Proposed Site Layout Plan – Plan Ref 2 V2 December 2021 open land within the curtilage of the site shall not be used for storage of any form or nature.

Reason: In the interests of the visual amenities of the area and the openness of the land in a rural area.

18. The storage compound shown on drawing Proposed Site Layout Plan – Plan Ref 2 V2 December 2021 shall only be used for the period of construction as agreed by the CEMP required by condition 8 attached to this permission.

Reason: In the interests of the visual amenities of the area and the openness of the land in a rural area.

19. Prior to the commencement of the development hereby approved, construction details of any temporary track(s) used for the construction period of the development shall be submitted to and approved by the Local Planning Authority in writing. The details shall

include no dig solutions where proposed in the vicinity of root protection areas of trees and hedgerows or as otherwise advised due to archaeological remains. The approved temporary track(s) shall be implemented on site in accordance with the approved details on a prior to erection of solar panels and associated equipment basis.

Reason: In the interests of highways safety during the construction period of the development hereby approved.

Landscape, Biodiversity and Ecology

20. The development shall be carried out in strict accordance with the recommendations outlined in the Ecological Appraisal dated June 2021.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period.

21. Prior to commencement of development a full schedule of all landscape and planting works shall be submitted to and approved in writing by the local planning authority, in consultation with the National Forrester Company. The schedule shall include:
- Details of all existing trees and hedgerows on the site and indicating whether they are to be retained;
 - Planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment),
 - Schedules of plants noting species, plant sizes, maturity, crown size and proposed numbers/densities for the 'woodland belts'; and,
 - A detailed implementation programme outlining the phasing of the woodland planting;

If within a period of 40 years from the date of the planting or until the proposed development ceases, 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 safeguard the ecological and nature conservation value of the area.

22. No development, including preparatory works, shall commence until a Risk Assessment/Method Statement for amphibians, detailing Reasonable Avoidance Measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Risk Assessment/Method Statement.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period.

23. No development, including preparatory works shall commence until the proposed skylark plots has been implemented in full accordance as shown in the Skylark Plot Plan.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period.

24. The development shall be carried out in accordance with the broad bat mitigation, compensation and enhancement measures outlined in sections 6.1 and 6.2 of the Bat Survey report prepared by Tetra Tech dated July 2021 unless varied by a European Protected Species licence subsequently issued by Natural England, a copy of which shall be submitted to the Local planning Authority. The agreed features for roosting bats shall be permanently installed in accordance with the approved details.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and its operation.

25. 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) Detail of a long term soil handling and management plan to maintain the soil quality of the site and ensure no unacceptable impact to the catchment of the River Mease SAC and/or SSSI
 - i) 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.

26. The development shall retain all hedgerows as set out by the Draft Construction Environment Management Plan dated October 2021

Reason: In the interests of safeguarding against harm to identified habitats throughout the construction period and for the life of the development.

27. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 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 approved

scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: To protect existing trees and hedgerow through the construction period of the development.

28. No development, including preparatory works, shall commence until a walkover badger survey has been undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures, which must include the provision of mammal gaps in fencing, shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

29. Prior to the commencement of development including preparatory works the details of any fencing (including temporary) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

Flooding and Surface Water Drainage

30. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- Rossi Long Consulting, (June 2021), Flood Risk Assessment and Drainage Strategy, RLC Ref.- 201053 rev-02. Tetra Tech Soil Management Strategy, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
 - And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

Details shall include a long term monitoring and maintenance strategy to satisfy the competent authority that the SuDS system will operate effectively for the lifetime of the development. The strategy should consider appropriate funding, responsibilities and mechanisms to ensure compliance for the lifetime of the development.

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.

31. Prior to the commencement of the development hereby approved a detailed assessment shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with

the drainage hierarchy as set out in paragraph 80 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.

32. Where swales are proposed to be constructed on slopes greater than 3% their design should include check dams, and not be located where extensive trees will cause shade conditions.

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

33. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction 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 LPA, before the commencement of any works, 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 occupies properties within the development.

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

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

Amenity Measures

35. The noise mitigation measures described in section 5.1 (Acoustic Barriers) of the Tetra Tech Noise Assessment (dated April 2021) shall be installed prior to the development

being brought into use. These noise mitigation measures shall be maintained thereafter for the life of the approved development.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance local planning policy SD1 / BNE1.

Fencing and Security

36. Prior to the erection of any sources of external lighting associated with the development hereby approved (including during the construction period) details shall be submitted of their specification, dimensions, siting and colour to the Local Planning Authority for approval in writing. The external lighting scheme shall be implemented on site in accordance with the approved details and maintained in good working order thereafter. If a lighting scheme is approved solely for the construction period this shall be removed prior to the first use of the development hereby approved.

Reason: In the interests of visual amenity, landscape character and nature conservation in a rural area

37. 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, CCTV poles, CCTV equipment, customer cabin, transformers, inverters and substation DNO. 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.

38. Prior to the installation of any solar panel modules forming part of the development hereby approved, details of the CCTV active monitoring provision shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details on a prior to first use of the development basis. The monitoring as mentioned within the Planning Design and Access Statement should be expanded upon.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions to promote the well-being of the area and to reflect local and national planning policies on secure design and crime prevention in new developments.

Decommissioning

39. Not less than 12 months before the expiry of the solar panel element of the approved development, a decommissioning and environmental management plan must be submitted to the relevant planning authority for its approval. The decommissioning and environmental management plan must be substantially in accordance with the construction environmental management plan approved and contain a decommissioning and site restoration scheme setting out—

- (a) a timetable including hours of work for the implementation and completion of the decommissioning and site restoration scheme;
 - (b) elements to be removed;
 - (c) the scheme to restore the land;
 - (d) Lighting and Noise risks and suitable mitigation
 - (e) Public Rights of Way management
 - (f) Soft landscaping including tree protection measures
 - (g) a methodology for the ecological management of sensitive habitats during the decommissioning and restoration works; and
 - (h) a methodology for the management of traffic during the decommissioning and restoration works.
- Decommissioning and restoration must be completed in accordance with the approved decommissioning environmental management plan within the period set out therein.

Reason: The application has been assessed and determined on this basis and to ensure that the site returns to its former state in a controlled and appropriate manner.

40. Prior to the commencement of the development, details shall be provided to the local planning authority of the bond or other financial provision to be put in place to cover all decommissioning and site restoration, and in the event of being required the drainage strategy costs on the expiry of the temporary element of this planning permission.

No work shall commence on the site until documentary evidence that the proposed bond or other financial provision is in place has been provided and written confirmation has been given by the local planning authority that the provision is satisfactory.

The applicant or their successors in title shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent and will be subject to a five yearly review from the commencement of the development, to be completed by a independent professional (at a cost to the applicant or successor in title) and approved in writing by the local planning authority.

Reason: The application has been assessed and determined on this basis.

Informatives

Lullington Public unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/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

applicant's/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. The required phases of archaeological recording of the site outlined in the conditions attached to this decision notice, are in line with the requirements of the NPPF which requires developers to record and advance understanding of the significance of any heritage assets which are to be lost to development. The fieldwork should be conducted by a suitably qualified archaeological consultancy (ie a CIFA registered organisation), to a written scheme of investigation to be agreed with ourselves. It is strongly recommended that the developer commissions the archaeological recording scheme soon after any grant of outline permission. It is vital that sufficient time is allowed to complete all the required phases of recording prior to the commencement of any ground preparation or building of the scheme. Due to the location of this development within the operational and safeguarding zone of East Midlands Airport a crane or tall equipment licence may be required from the Civil Aviation Authority on a prior to commencement basis, separate to planning.

Item No. 1.4

Ref. No. [DMPA/2021/1475](#)

Valid date: 24/09/2021

Applicant: Karen Branchley

Agent: Elisabeth Hackett

Proposal: The erection of a replacement porch at 79 Main Street, Kings Newton, Derby, DE73 8BX

Ward: Melbourne

Reason for committee determination

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

Site Description

The application site comprises of a cottage, with adjoining converted barns/outbuildings, along with a former bakehouse. It has vehicular access via the north side of Main Street. A shared courtyard can be seen to the front of the property which is used for access and parking for the application site and neighbouring properties, Nos 77 (located adjacent, north) and 75 Main Street (located opposite, north-west). There is a modest area of private residential amenity space located to the rear of the application site (south-east).

The property has a linear form and is sited perpendicular to the northern side of Main Street. It is located within a rural village and towards the eastern end of Kings Newton Conservation Area (first designated on 12th February 1969 and was extended on 12th July 1979).

The site forms part of the historic settlement pattern, grain, and agricultural character of the area, and has been identified within the Kings Newton Conservation Area Character Statement (2011) as a building which positively contributes to the character and appearance of the Conservation Area.

The proposal

The application seeks planning permission for the erection of a replacement porch located to the front (east) elevation. The small section of wall abutting the side (west) elevation of the proposal is a late addition to the scheme and a request has been made to the applicant's agent to remove this new element. The Local Planning Authority is awaiting a response and members will be updated verbally at Committee on this issue. The volume of the existing porch is below the 115 cubic metre threshold and, therefore, does not require an application for planning permission for relevant demolition in a conservation area.

The current proposal formed part of a previously refused application (DMPA/2020/1393), which comprised of the demolition of the open porch and its replacement with an enclosed porch, and the erection of new entrance gates and wall in part and new boundary wall, with associated landscaping. The previously refused gates, wall, and associated landscaping do not form part of the current application and a Certificate of Lawfulness for proposed boundary walls has been submitted to the Local Planning Authority which will be considered separately

**DMPA/2021/1475- 79 Main Street, Kings
Newton, Derby, DE73 8BX**



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to this application.

Due to inaccuracies in the proposed plans, the Local Planning Authority deferred the current planning application from the January Planning Committee (11th January 2022). Amended plans were received on 17th January 2022 illustrating the existing allocated 5.5m parking space for neighbouring property, No.77 Main Street and subsequent repositioning of the proposed porch. Revised plans include 'Proposed Plan, drawing no. 310.02, Rev C', received 17th January 2022, and 'Site Plans and Elevation, drawing no. 310.03, Rev C', received 17th January 2022.

Applicant's supporting information

The Design and Access Statement Rev A (received 24th September 2021) describes the site and outlines the proposal, detailing the design reasoning behind the planning application. It seeks to demonstrate how the access, layout, scale and appearance, and landscaping of the proposal fits within the context of the site and the wider area. Up-to-date photographs of the host property have also been included within the supporting document. Full details of this document can be found within the submitted application.

Relevant planning history

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

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

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

DMPA/2020/1393 – The demolition of open porch and replacement with enclosed porch and the erection of new entrance gates and wall in part and new boundary wall with associated landscaping. Householder planning permission was refused on 6th July 2021 by Planning Committee contrary to the case officer's recommendation.

Reason for refusal:

The proposed boundary wall within the open courtyard of this former farm complex would introduce a built form to subdivide and erode an important feature of the historic settlement pattern within the area, to the detriment of the overall character and appearance of the Kings Newton Conservation Area. The development would therefore be contrary to Policy BNE2 of the Local Plan Part 1 and Policies H27 and BNE10 of the Local Plan Part 2 and there are no reasons which would justify taking a decision at variance to these policies.

DMPN/2021/1474 – Certificate of Lawfulness for proposed boundary walls to define boundary. Pending consideration.

Responses to consultations and publicity

Cllr Martin Fitzpatrick

Three comments have been received from Cllr Martin Fitzpatrick on 28th October 2021, 12th November 2021, and 6th February 2022.

- On 28th October 2021, called the planning application in and wished for the Committee to consider that local concern has been expressed about a particular issue.
- On 12th November 2021, comments were provided relating to neighbour concerns regarding accuracy of the submitted plans and boundary line. Comments also relate to other residents' expressing concerns regarding the scale of the proposed porch and impacts on the character of the open courtyard when considering the Conservation Area. Concerns have also been raised regarding the impact on residential amenities of neighbouring properties in terms of loss of privacy, overlooking, loss of light, and impact on parking and access.
- On 6th February 2022, additional comments were received outlining concerns with new plans illustrating the introduction of a wall to the end of the extension and issues with allocated neighbour parking, inaccurately drawn vehicles, and a neighbour dispute over the boundary line.

Melbourne Parish Council – no objections

Conservation – no objections, subject to conditions. The additional extension would be modest in scale with the same eaves and ridge height as the converted agricultural range which forms part of the dwelling to the north of the existing porch. The proposed materials include stonework in the lower sections and matching brick above with slate for the roof. I would suggest conditions relating to facing and roofing materials and would also suggest a sample panel for stonework to ensure that the work is undertaken to a good standard.

Subject to such conditions I would be satisfied that this porch element of the proposal would preserve, and not harm, the special architectural and historic character and appearance of the conservation area, achieving the desirable objective within section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Melbourne Civic Society – objects. The extension proposal will neither preserve nor enhance the conservation area. Like so many other vernacular buildings, the house comprises an uncomplicated sequence of one-room-deep elements placed end-to-end, giving it an appropriately simple and linear character. This proposal awkwardly bridges the junction between the single storey and two storey parts, with a porch squeezed at right angles to it, to face the road, and the roof form has to include a couple of awkward valley gutters because it is unnatural.

Kings Newton Residents Association – Objects. Concerns raised regarding impacts on neighbour parking, the historic farmyard, and Conservation Area.

Local Residents and the General Public - Representations from 12 individuals have been received relating to the original and revised plans, with 26 objections raised. Many of the objections received cover the same issues such as the following:

- a. Inappropriate scale, design, and siting of proposed porch, and the addition of an adjoining wall
- b. Impact of the erection of a wall/fence within the courtyard
- c. Impact of the proposal on the character and plan-form of the property, historic farmyard layout, and wider character of conservation area

- d. Impact on living conditions, parking arrangement, vehicular movement within courtyard, right of way, and access of No.77 Main Street
- e. Concerns relating to highway safety of vehicles entering and existing the courtyard onto Main Street, with subsequent risks to pedestrians and vehicles
- f. Impact on the access for agricultural vehicles, tractors, trailers etc., servicing the paddock/small field towards the north of the site
- g. Impact on the access of emergency vehicles to No.77 Main Street
- h. Impact on living conditions of neighbouring properties
- i. Inaccurate vehicle dimensions on plans
- j. Ownership challenge
- k. Plan inaccuracies relating to the scale and siting of the proposal and the encroachment upon parking spaces and right of way to No.77 Main Street under existing legal easement, and boundary line dispute impacting on No.75 Main Street
- l. Request for Article 4 (1) Direction to be considered for the replacement porch extension and the dividing boundary wall under DMPN/2021/1474
- m. Impact on two lime trees fronting Main Street covered by a tree preservation order

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).

The relevant policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption in Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), and Policy BNE2 (Heritage Assets).

2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), and BNE10 (Heritage).

The relevant National Guidance is:

National Planning Policy Framework (NPPF): Chapter 2 – Achieving Sustainable Development, Chapter 12 – Achieving Well Designed Places, Chapter 16 – Conserving and enhancing the historic environment.

Planning Practice Guidance (PPG): Reference ID 18a – Historic Environment, Reference ID 26 – Design: process and tools.

Historic England Good Practice Advice note 2 (GPA2) Managing Significance in Decision-Taking in the Historic Environment (2015).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD).

Kings Newton Conservation Area Character Statement 2011 (CACS).

The relevant legislation is:

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning considerations

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:

- The impact on the character and appearance of the Conservation Area
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area
- The impact on access and parking
- Other issues raised through consultation and publicity.

Planning assessment

The impact on the character and appearance of the Conservation Area

Significance of Conservation Area

Kings Newton Conservation Area has been defined as an area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. Its special interest derives from its historic development pattern, the architectural and historic qualities of buildings, the area's agricultural nature, rural landscape setting, and principal views and open spaces. Historic maps indicate that the village was low density with a loose knit grain, along Main Street, Jawbone Lane, Trent Lane, and Sleepy Lane, with views out towards surrounding countryside.

The historic built form ranges in date from the 16th and 17th, 18th, and 19th centuries, with local vernacular cottages, historic farmsteads, and several larger, grand houses, such as Kings Newton Hall. Local vernacular materials predominantly include timber-framing, brick, and stone, and either plain clay tiles, stone slates, or natural slates roofs, with thatch being less common. Whilst the historic pattern of development is clearly legible, the area has seen 20th century development, predominantly during the mid/late-20th century. Positive features such as stone boundary walls, along with grass verges, mature trees and planting also contribute to the area's verdant character when viewed from the street scene.

The application site comprises of a cottage with adjoining converted barns/outbuildings, along with a former bakehouse, adopting a linear form. It is constructed from local vernacular materials, such as red brick with elements of stonework and timber framing. It has been altered over the years, with its earliest phase possibly dating to the late-18th/early-19th century. Due to the modest appearance of the cottage, it is possible that the site formed an agricultural workers' cottage with attached barns/outbuildings, and crofts to the north: likely once associated with one of the larger historic farmsteads within the village.

Therefore, it is considered that the application site is a local vernacular building which informs the historic pattern of development along the village core and is illustrative of the agricultural heritage of the area, thus positively contributing to the character and appearance of the Conservation Area.

Impact

Due to the orientation of the site being sited perpendicular to the northern side of Main Street, the property's frontage faces into the open courtyard. Therefore, the cottage itself is setback within the courtyard with its adjoining bakehouse located prominently along the highway. Whilst there are mature trees and sections of stone boundary walls located to the front of the courtyard facing Main Street, there are visual breaks within the boundary treatment which provide views of the property from the street scene.

The proposal would remove the existing open porch, with a front projecting gabled extension to act as an enclosed porch, along with a small lean-to open timber porch, adopting a similar position to the existing. From reviewing the site's planning history, the existing oak framed porch was added towards the late-1990s when the property was altered, and barns/outbuildings converted to residential use. Planning history also illustrates that previously the front elevation of the cottage facing the courtyard appeared to have no entrance with a window sited in the location of the existing porch.

The existing porch is of good quality construction with the use of natural materials and its style is reflective of 20th century open timber porches within the village. It should be noted that OS map 1901 illustrates an enclosure fronting the courtyard elevation of the site. The outline is unhatched which may possibly indicate that it was not a solid structure and, therefore, could have been a small enclosed walled area, or possibly an open canopy lean-to that projected into the courtyard area.

The proposed extension would be modest in scale, its eaves matching that of the adjoining, single storey converted agricultural range, and its ridge height would sit below that of the main cottage and adjoining single storey range. The proposed materials include stonework to lower sections and matching brick above, with Staffordshire blue roof tiles, and open timber work.

When considering the phasing of the building, its previous alterations, along with the scale, siting, and design of the proposal, and use of matching materials, it is considered that the proposal would avoid detracting from the overall character of the host property and that of the historic courtyard. Whilst the proposal would be visible from the street scene, it is considered that due to its setback location and scale that it would avoid being an unduly prominent or dominant feature that would negatively impact on the character and appearance of Character Area 1 of the Conservation Area when viewed from the street scene.

It is considered that the proposal would cause no harm to the significance of the Conservation Area in terms of its special architectural or historic interest, therefore, preserving its character and appearance, achieving the desirable objective within Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, the proposal would conform to the requirements of Chapter 16 of the NPPF, along with Policy BNE2 of the LP1 and Policy BNE10 of the LP2, in that the heritage asset would not be harmed and the positive contribution that the host property makes to the historic environment would be preserved.

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

The proposed replacement porch would be single storey and classed as a non-habitable room, with its eaves and ridge being no higher than the existing single storey range to which it would be attached. The rear (north) elevation wall facing towards the frontage of No. 77 would have no openings, whilst a rooflight is proposed to the north roof slope. The proposed rooflight would be installed at a height and position that would not lead to an unacceptable loss of privacy in terms of overlooking to the neighbouring amenity of No. 77.

No.77 has two ground floor casement windows facing south and it is acknowledged that the outlook from these two windows would change with the introduction of the proposal. It is considered that due to the single storey nature of the proposal and adequate separation distances that it would not result in unacceptable levels of overbearing, overshadowing, or loss of light to the neighbouring amenity of No.77 to justify a refusal of planning permission.

A standard double casement window is proposed to the side (west) elevation of the proposal. It is acknowledged that due to the courtyard arrangement of the application site and its neighbours, there is an existing level of mutual overlooking. Therefore, when considering the existing arrangement of openings to the front of the application site and that of No.75, including sufficient separation distances, the proposal would not cause any adverse additional loss of privacy or undue overlooking than what is currently experienced. Due to the siting and scale of the proposal, it is also considered that the proposal would not adversely affect the neighbouring amenity of No.75 in terms of causing undue overbearing, overshadowing, or loss of light.

Therefore, when considering the current privacy levels and amenity of Nos 77 and 75, it is considered that the proposal would accord with the Council's SPD guidance relating to residential amenity.

Due to the perpendicular orientation of the property to the existing highway and the modest scale, form, and mass, and matching materials of the proposal, it is considered that the proposal would not have an adverse impact on the character of the host property and would avoid negatively impacting on the visual amenity or character of the street scene.

The proposal would, therefore, be in accordance with the requirements of Chapter 12 of the NPPF, along with the objectives of Policy BNE1 of the LP1 and Policy H27 of the LP2, in that the development would be in keeping with the scale and character of the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

Impact on access and parking

The design and access statement states that access will be retained as existing, via Main Street through the existing openings within the stone boundary walls fronting Main Street. It also states that the area outside of the front of the property is used for parking and that there are no proposed alterations to parking allocation. New ground coverings will also be associated, and rights of way will be retained.

The Local Planning Authority requested revisions to the proposed plans to accurately illustrate the siting of the proposal in relation to neighbouring property's No.77 existing allocated parking area. Amended plans were received on 17th January 2022 illustrating the existing allocated 5.5m wide parking for neighbouring property, No.77 Main Street and the subsequent repositioning of the proposed porch. Vehicular movement and parking for the host property has also been illustrated on the revised proposed plans. Therefore, with regard to the revised plans, it is considered that the proposal would maintain sufficient parking provision.

Other issues raised through consultation and publicity

Comments in relation to the boundary wall that would divide the courtyard and the issues raised regarding the proposed alterations to the front boundary wall, the impact on the protected trees, and highway safety are not considered to be relevant considerations under the current scheme, as these elements form part of the previously refused application (DMPA/2020/1393). The current proposal has omitted these elements from the proposal and planning permission is sought for the replacement porch only.

Concerns have been raised relating to the impact on the access for agricultural vehicles, tractors, trailers etc., servicing the paddock/small field towards the north of the site, and the

access of emergency vehicles to No.77 Main Street. As noted above, the design and access statement details that the access will be retained as existing, via Main Street through the existing openings within the stone boundary walls fronting Main Street. It also states that the area outside of the front of the property is used for parking and that there are no proposed alterations to parking allocation.

It should also be noted that the previous reason for refusal did not include the proposed porch or the proposed alterations to the existing front wall and the access onto Main Street. Application DMPA/2020/1393 was refused on the basis that the proposed internal boundary wall would have a detrimental impact on the historic courtyard layout of a former farm complex.

Unless the size of the development does not comply with national and local policies and adopted supplementary planning guidance, the applicant is at liberty to erect an extension on any land that is within their ownership, subject to gaining planning permission where it is required. The Local Planning Authority can only assess what is presented as part of a planning application.

The structure has been described in line with its proposed function/use. Whilst it could be argued that it is large for a porch, it is intended to be used for the purpose of a porch, as outlined within the submitted design and access statement. For instance, the supporting information states: 'The entrance is adjacent to the road and allows people to arrive, take off their coats and shoes and move through a covered space and into the house into a new arrival space within an existing corridor.' Therefore, the proposed extension would be classed as a non-habitable space with regard to assessing its impact on neighbouring amenities.

The alleged inaccurate ownership boundary line would not be classed as a material planning consideration. This would be a civil matter between the parties involved and is covered by other legislation/guidance.

The Party Wall Act provides the necessary framework for preventing and resolving disputes in relation to party wall, boundary walls and excavations near neighbouring buildings which are all civil matters.

It should be noted that the grant of planning permission does not alter any private legal situation with regard to the carrying out of any works involving land which the applicant does not own or control. The consent of the owner(s) involved are required before any such works are started.

An average family car is 4.4m (l) by 1.8m (w) and the measurements provided on the submitted plans are slightly smaller at 3.9m x 1.6m. This discrepancy does not alter the fact that there is ample space to accommodate a correctly scaled car within the space depicted for the neighbour's parking spaces on the submitted plans ref. 310.02 Rev C, received 17th January 2022 and 310.03 Rev C, received 17th January 2022 and that the existing space behind those parking spaces would not be impacted upon by the current proposal for a porch.

In terms of inaccurate proposed plans, the Local Planning Authority deferred the current planning application from the January Planning Committee (11th January 2022) requesting revisions. Amended plans were received on the 17th January 2022 illustrating the existing allocated 5.5m width parking space for neighbouring property, No.77 Main Street and subsequent repositioning of the proposed porch (ref. 310.02, Rev C, received 17th January 2022, and 310.03, Rev C, received 17th January 2022).

A request for Article 4 (1) Direction to be considered for the replacement porch extension and the dividing boundary wall under DMPN/2021/1474. Please note that DMPN/2021/1474 is to be considered separately and not under this application. An Article 4 Direction is part of planning legislation that allows the Council to remove permitted development rights including changes of use from an area or a particular property in certain limited situations where it is necessary to protect local amenity or the well being of an area. It is important to note that under the historic planning application ref. 9/0596/0086/F that Condition 12 of the decision notice removed certain permitted development rights in terms of requiring planning permission to be sought for any alterations or extensions to ensure that any such extensions/alterations are appropriate to the character and appearance of the building and in the interests of privacy. Therefore, it is unlikely that an Article 4 Direction would be imposed upon the dwelling due to the current restrictions relating to extensions/alterations.

An ownership challenge has been made; therefore, the Local Planning Authority has made a request to the applicant's agent to provide clarification in relation to this matter and the Local Planning Authority is awaiting a response. Members will be verbally updated on the night as to the response.

Conclusion

The proposal is not considered to conflict with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies S2, SD1, BNE1, and BNE2 of the LP1, and Policies H27 and BNE10 of the LP2, the Council Design Guide SPD, along with Chapters 2, 12, and 16 of the NPPF. Therefore, 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 the Location Plan (ONLY) provided with drawing 310.02, Rev D (received 24 September 2021), drawing 310.02, Rev C (received 17 January 2022), and drawing 310.03, Rev C (received 17 January 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. Prior to their incorporation in to the building(s) hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

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

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

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

Item No. 1.5

Ref. No. [DMPA/2021/1808](#)

Valid date: 29/11/2021

Applicant: Bill Miller

Agent: Steve Pearce

Proposal: **Construction of 2 pairs of semi detached houses with access and parking area at 69 Woodville Road, Overseal, Swadlincote, DE12 6LU**

Ward: Seales

Reason for committee determination

This item is presented to the Committee at the request of Councillors Wheelton and Ackroyd as local concern has been expressed about a particular issue and the Committee should debate the issues in this case which are very finely balanced.

Site Description

The application site is located within the Overseal village boundary and comprises brownfield land, i.e. previously-developed land that was until recently occupied by redundant buildings and structures, and the side garden to No.69.

The proposal

The proposal is the substitution of two larger detached dwellings at the north of the site to be replaced with two pairs of semi detached dwellings, increasing the proposed development from six dwellings to eight.

Applicant's supporting information

The application is supported by:

- Planning drawings - Location Plan, Site Layout Plan, House Type Plans.
- Planning Statement from the Agent, Mr S Pierce
- Coal Mining Risk Assessment
- River Mease Impact Assessment

Relevant planning history

9/2015/0518 – Outline application (all matters except for access and layout to be reserved) for the residential development. Approved, Oct 2017.

DMPA/2021/0725 – Approval of reserved matters (scale, appearance and landscaping) pursuant to outline permission ref. 9/2015/0518. Approved, Oct 2021.

DMPA/2020/0330 - Outline application (matters of access and layout to be considered now with matters of scale, appearance and landscaping reserved for later consideration) for the construction of 6 dwellings - Withdrawn 28/07/2020.

**DMPA/2021/1808- 69 Woodville Road, Overseal,
Swadlincote, DE12 6LU**



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South Derbyshire District Council, LA 100019461.2020

DMOT/2021/0865 - Approval of details required by condition 18 of permission ref 9/2015/0518 relating to Outline application all matters except for access and layout to be reserved) for the residential development of Land - Approved 14/10/2021.

DMOT/2022/0335 - Approval of details required by condition 17 attached to ref. 9/2015/0518 (Outline Application All Matters Except for Access and Layout Reserved for Residential Development) Pending.

Responses to consultations and publicity

County Highways Authority – No objection, subject to conditions.

Natural England - Request additional information relating to nutrient budget and appropriate mitigation measures. Since the initial application was approved, the previous DCS scheme has reached it's capacity; thus no further development can rely on the scheme to mitigate their additional nutrient loading. This means that any additional nutrients which would enter the River Mease SAC as a result of this development must be mitigated via bespoke mitigation measures.

Natural England have subsequently released new guidance, which offers a methodology to allow development without causing an adverse impact on Nutrient sensitive sites, Nutrient Neutrality. This guidance was sent to the authority on 16th March 2022. We recommend that the applicant follows this guidance, calculates a nutrient budget for the site, then provides bespoke mitigation for the amount of nutrients the alterations to the development will introduce to the River Mease SAC.

NE notes that a DCS contribution was provided for the two 4 bed houses approved under application 9/2015/0518 and DMPA/2021/0725. This equates to 506mg/day of P loading to the River which has been mitigated for (as per DCS2 2016). As a result, we are of the opinion that this amount of nutrients can deducted from the total nutrient budget calculated. Any phosphorous loading above this amount will need to be mitigated via bespoke mitigation measures.

Overseal Parish Council - object to the proposal on the basis that it is an overdevelopment of the site.

Cllr Ackroyd objects to the proposal having been contacted by nearby residents who are concerned about the increase in traffic caused by the development. There is a fear that this development will change the identity of the area to the detriment of the existing residents.

Cllr Swann (Derbyshire County Council) comments that residents have concerns regarding traffic relating to the amended proposal. Under the original planning permission, the applicant conservatively estimated four vehicles while with the new plans this figure is doubled and, in reality, it is likely to be more. There will, of course, be many additional vehicle movements associated with visitors and deliveries to the proposed properties and this will have a significant impact on what has always been an extremely quiet cul-de-sac.

Twenty Eight representations have been received, raising the following comments:

- a) Highway safety already an issue in the area;
- b) Proposal will have an impact on parking provision for existing dwellings on Forest View;
- c) Impact on Fresh air;
- d) Proposal out of keeping introducing two and three bedroom homes in an area exclusively of

- four bedroomed detached dwellings;
- e) Lack of green space at front of dwellings due to parking requirements.
 - f) Parallel parking not appropriate at residential dwellings;
No parking for visitors proposed;
 - g) Two and three bedroomed properties not needed as evidenced by the availability of rental properties in the area;
 - h) Overdevelopment of the site;
 - i) Unaware of proposal submitted in Nov 2021 changing scheme.
 - j) Will impact on parents mental health worrying about children playing in the street;
 - k) This appears to be profits before road safety;
 - l) Apparent lack of notification of application;
 - m) Concerns are such that the application should be heard by Planning Committee;
 - n) The works appear to have started but then stopped affecting the driveway and boundary fence of 47 Forest View. This area adjoins the public footpath and could be dangerous;
 - o) Large lorries accessing the site from Forest View. Where are the conditions to keep the highway clear of mud and debris, carry out required remedial works, restriction of delivery hours. prohibition of deliveries during school holidays/weekends?;
 - p) Given this is close to a school the state of Woodville Rd has been diabolical. Mud has run onto the road. Pavement appears damaged;
 - q) Application suggests that there will be no additional parking which is not correct.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), and INF8 (The National Forest)

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

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

- Principle of Development
- Design and Appearance
- Amenity
- Biodiversity and Drainage
- Highway Safety

Planning assessment

Principle of development

The application proposal is the substitution of the two larger dwellings for two pairs of semi-detached dwellings in the northern part of the site approved in 2017 in outline (9/2015/0518) and Reserved Matters application (DMPA/2021/0725). The principle of development on this site has therefore been established through this previous permission and in any event complies with H1 and SDT1.

Design and Appearance

Woodville Road comprises a variety of housing styles and ages, with some dwellings being positioned close to the back edge of the footway, whilst others are set back behind front gardens. Forest View is a more modern housing site of predominantly larger detached dwellings with front gardens and off street parking. However, there are some smaller semi-detached dwellings and a small terrace close to the junction of Forest View and Woodville Road and the proposed semi-detached dwellings would be similar in appearance to those dwellings. Policy BNE1 (g) of LP1 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 single two bed dwelling (6a) and the three three bed properties (5a, 7 and 8) are similar in style and appearance to the existing smaller properties and are of traditional construction with brick and concrete tiles to match the existing dwellings on Forest View. As such they are not out of character with the area being a small extension to an already mixed housing estate. BNE1(b) refers to parking, making this comfortable. Insufficient or poorly designed parking can have negative impacts on how a street functions creating cluttered and chaotic environments. Whilst the parking layout, a private driveway off the cul-de-sac, is not ideal making use of tandem parking away from the side of the dwelling, each dwelling has a minimum of two spaces each and therefore complies with the requirements of the design guide, if not the recommended layout. The private driveway approach to development is not new to Forest View as this approach has already been adopted in the street. The proposal is therefore considered to comply with BNE1.

Amenity

All four dwellings are orientated so that they face north west towards the side elevation of 43 Forest View, a blank wall and rear garden. This replicates the layout to the west where Nos 36 and 38 front the side elevation and rear garden of 49 Forest View on another private driveway. As the dwellings are set back a minimum of 10m from the boundary fence of 43, it is considered that there is no adverse impact in terms of overlooking. In terms of distances between primary windows the development the proposal does not meet this standard between the other dwellings proposed in the previous permission which are not yet built. In particular the bedroom window of plot 6a is only 15m from the lounge window of plot 3. However, these distance standards should be treated with a degree of flexibility when considering new proposed developments, and in any event, the previous larger house did not meet these standards for the same reasons. The four proposed dwellings are all provided with outdoor amenity space, sufficient for dwellings of this type and size and as such the proposal is considered to comply with policy SD1.

Biodiversity and Drainage

Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in

biodiversity wherever possible. The application site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which is also a Site of Special Scientific Interest (SSSI). As the habitat of this area is under threat from pollution and poor water quality, mainly due to high phosphorus levels and drainage works, policy SD3 (iv) of the Local Plan states that all relevant developments within the catchment area should support the delivery of the River Mease Water Quality (Phosphate) Management Plan by means of financial contribution. The Developer Contributions Strategy devised to allow this contribution was previously understood to have reached capacity. Work is ongoing on a new development contribution scheme (DCS3).

As the site is within 30m of the existing foul network, it is feasible that a connection can and should ultimately be made. On the previous understanding that no capacity remained in DCS2, the applicant provided an alternative solution to connecting to the mains sewer. The provision of a cesspool was proposed as a means of mitigating the impact of the additional foul and rainwater run off. In response to consultation Natural England requested additional information:

- a nutrient budget must be calculated for the development (using the River Mease Nutrient Calculator);
- where appropriate, mitigation measures must be put in place to achieve Nutrient Neutrality for this development.

However, it was recently established that there remains some capacity left in DCS2 due to some lapsed permissions, sufficient to cover the additional two dwellings. In contributing to DCS2 via a financial sum through a S106 Unilateral Undertaking to mitigate for the additional nutrient loading, no Adverse Impact on Integrity will occur to the River Mease. Natural England confirmed that this was an acceptable approach subject to the signing of a fresh Unilateral Undertaking relating to this proposal and only a contribution for the two additional dwellings over and above the original scheme of six dwellings the proposal is considered to comply with SD3 and BNE3.

Highway safety and parking

As previously discussed the four dwellings are accessed via a private driveway at the end of Forest View. This would be a second private driveway at the end of the road, the first being an integral part of the development at the time of construction. The Highway Authority has no objection to the amended scheme subject to conditions relating to formation of the access, gradient and provision of parking. The proposal therefore complies with INF2.

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

Recommendation

Approve subject to the following:

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on a Unilateral Agreement in respect of a contribution to DCS2 for the two additional dwellings.
- B. Subject to A, **Approve** the application subject to the following condition(s):

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs. 906-LP2 (Location Plan); 906-011 (Site Plan Plots 5a-8); 906-07 (Plans and Elevations); 906-08 (Plans and Elevations); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development shall commence until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Both schemes shall meet the requirements in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated', and include relevant mitigation where necessary. The approved preventative or mitigation measures (if any) shall be incorporated the development and upon completion, verification of their correct installation (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

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

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

5. Prior to any other works commencing the new access shall be formed to Forest View. The access shall have a minimum width of 4.25m and be constructed as a splayed vehicular crossover.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that even initial preparatory works could bring about unacceptable impacts.

6. The gradient of the accesses shall not exceed 1:30 for the first 10 metres back from the highway boundary and 1:20 thereafter.

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

7. No gates shall be erected within 5m of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

8. Prior to the first occupation of any dwellings the private driveways, parking and manoeuvring spaces shall be laid out in accordance with the application drawing 906-11 and maintained throughout the life of the development free of any impediment to their designated uses.

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

9. Prior to the first occupation of any dwelling the bin store shall be provided as shown on the application drawing 906-11.

Reason: In the interests of highway safety.

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

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

Informatives:

- 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.
- c. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d. Planning permission does not give you approval to work on the public highway. To carry out 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, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- e. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.

Item No. 1.6

Ref. No. [DMPA/2022/0624](#)

Valid date: 09/05/2022

Applicant: Sam Elgie

Agent: Wilson Architects Ltd

Proposal: The erection of a proposed roof and rear extension at 3 Fishpond Lane, Egginton, Derby, DE65 6HJ

Ward: Etwall

Reason for committee determination

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

Site Description

The site lies within the Settlement Boundary of Egginton and is host to a large detached two storey dwelling set 32m back from the highway by a hard surfaced parking area and driveway. To the east of the property lies a sizeable garden area containing a substantial amount of vegetation with a number of outbuildings present also.

The surrounding area consists of a range of property sizes including detached two storey properties and two storey terrace dwellings, some located a significant distance from the highway and other located just off it. The architectural design of the properties varies also with some properties supporting red brick and others painted white brickwork. To the south of the site lies playing fields and Egginton Primary School lies approximately 120m south east of the site.

The proposal

The application seeks permission to raise the roof of the existing single storey element to create a two storey element along with adding a further two storey rear extension at the front and at the rear of the property.

Applicant's supporting information

Submitted with the application is;

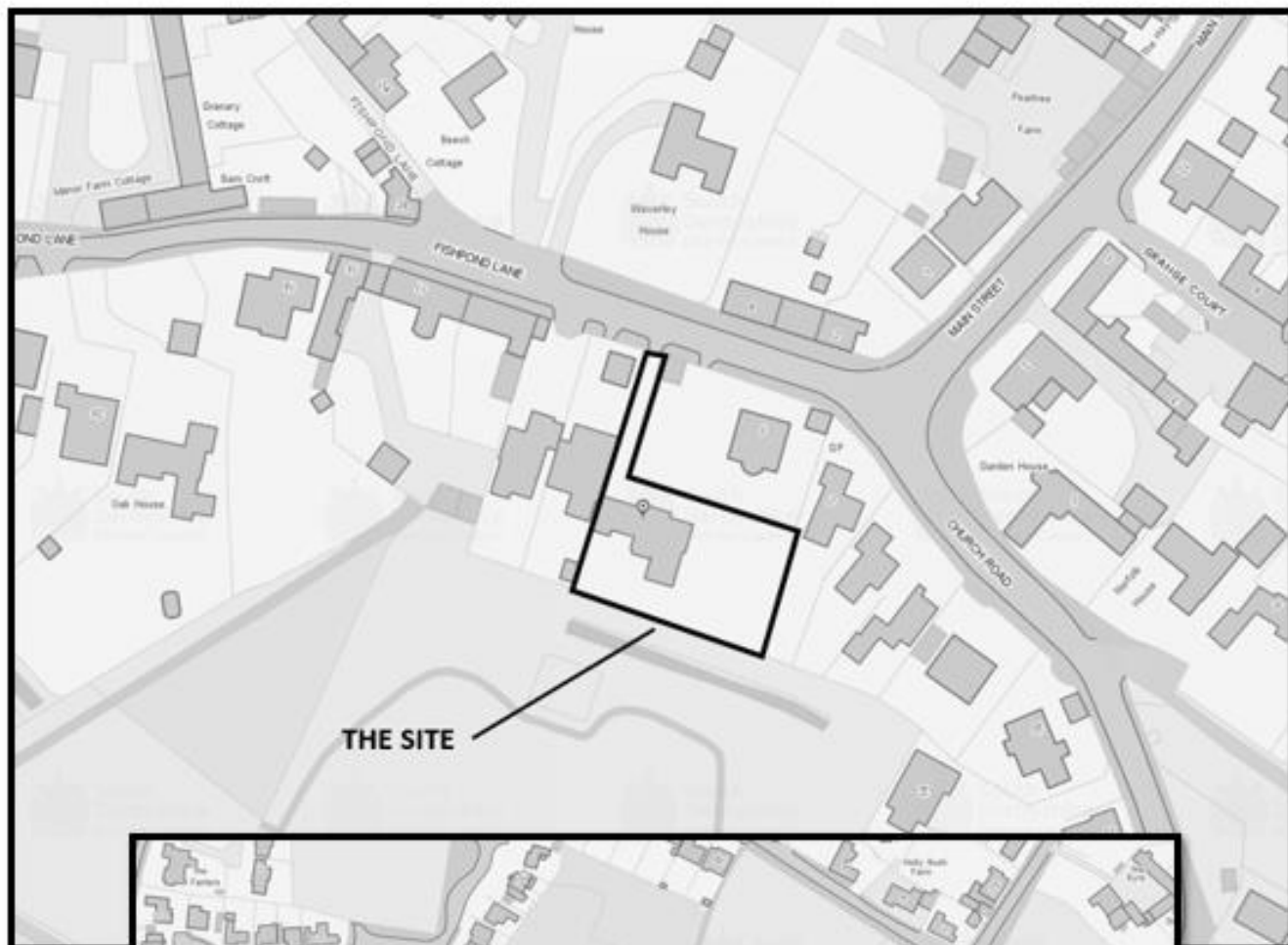
- Existing Elevations
- Existing Floor Plans
- Proposed Ground Floor Plan
- Proposed First Floor Plan
- Proposed Site Plan
- Proposed Elevations
- Photo Montage

The applicant has also confirmed in writing

- the property will be used as a family home and not a HMO.
- the plant/laundry room will be used a family utility room.
- To eradicate any concerns to our neighbours we are happy to build our extension a step in so not to bother the boundary

Saved to S: Drive

**DMPA/2022/0624- 3 Fishpond Lane, Egginton,
Derby, DE65 6HJ**



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South Derbyshire District Council, LA 100019461.2020

Relevant planning history

9/2013/0359 - The erection of an extension - Approved August 2013.

9/1998/0645 - The installation of a pitched roof on the garage and a conservatory at the rear of the detached dwelling - Approved.

Responses to consultations and publicity

Highways: - No objections.

Three letters of objection have been received from members of the public raising the following concerns:

- The proposal offends by nature of its scale and impact, the use of this property as a dwelling of multiple occupation being inappropriate for the residential area concerned, and impossible to provide sufficient parking provision without great local disturbance. I hope your Planning Dept will oppose the application.
- We object to this proposed development due to the scale and over-development of a property that has had previous extensive development.
- Development seems to be excessive and overbearing to one side (towards No5) as where the plot has sufficient space to the opposite side and with some creativity could make a more sensible project.
- Our main concerns relate to proposed angle of new roof to the side adjacent to our property (bathroom) will result in excess water fall onto narrow passageway between properties on our side and with potential damp issues. Current fascia and guttering hang over the boundary onto our property and with excessive rain, guttering currently cannot cope with fall and overflows. Proposed New roof pitch is taller so we will assume water fall will be far greater and excess water will overflow.
- extension to rear of current garage far exceeds the current building line of the neighbouring properties and will also result in a lack of natural light into our kitchen and dining room especially in the winter months. The plans show proposed extension at the side to the back of the garage (bedroom 6) as a continuous wall however there is an existing brick dividing wall which belongs to us and unless removed will not allow this continuation.
- proposed new two storey entrance will have a potential detrimental effect on light into our dining room, where light is currently quite poor.
- proposed development into a large six bedroomed property with insufficient parking available up a narrow driveway will cause issues with potential excess parking on the road in front of our property and adjacent properties making access difficult.
- proposed situation of a plant /laundry room on the boundary wall next to our property (dining / kitchen) will result in potential machinery ie heat pumps etc .excessive noise..
- we are concerned about the potential lack of privacy into our garden with the proposed rear terrace which will overlook our garden.
- The proposed extension to this property completely overlooks our bedroom and lounge. The design is completely out of character with the other properties in the area as the bungalow is enclosed within the original Egginton Hall walls and the access and parking for a 6 bedroom property is also completely unsuitable. Overall, this application is unsuitable and finally we would point out this property has already been extended by nearly 100% of its original footprint.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); and BNE1 (Design Excellence).
2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development).

National Guidance:

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

Local Guidance:

- South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

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

- Design
- Impacts on amenity
- Highway Impacts
- Flood risk

Planning assessment

Design

The proposed development would be set back from the public highway by 32m and would not be visually intrusive within the street scene. The extensions would include raising the roof height of the existing single storey element to create a second storey as well as a two-storey rear and front extension.

The extensions whilst increasing the bulk of the property, would largely be built on the existing footprint of the dwelling. The front and rear extensions would increase the footprint of the building, however they could be accommodated within the plot without appearing excessive or cramped within site. The extensions and additions would integrate well within the site and would not be at odds within the surrounding area.

The design of the dwelling is clearly modern with the use of white render and dark grey composite cladding in place of red brick. Whilst some flat roof elements have been added to the roof design, overall, the pitched roof design remains. The surrounding properties vary in size and design and the site does not lie within a Conservation Area and is situated a good distance back from the street scene. It is considered the design and materials used on the property are acceptable and refusal on design could not be justified in this instance. The development is considered to be in accordance with Policies S2 and BNE1 of the Local Plan.

Impact on Amenity

The properties most likely to be impacted by the proposal are No. 1 and No. 5 Fishpond Lane.

The proposed property lies 15m from the rear elevation of No. 1 and 4.6m from the shared northern boundary. A 1.8m fence will be placed on the northern boundary and these distances

are considered to be acceptable in preventing any detrimental loss of privacy to the rear garden of No. 1.

The property will be built on the western boundary shared with No. 5. Development on this boundary will remain single storey in nature with the roof sloping away from the boundary. No windows are proposed on the side elevation and the roof lights would be located high in the roof slope so that any potential overlooking would be minimal.

The proposed property is set back further south than No. 5 and any views from the rear terrace would only be at the very bottom of the garden of No. 5 and would mainly be overlooking the adjacent playing fields. Overall, it is considered the single storey side extension would not result in any harmful overbearing impact to No. 5 and no detrimental loss of privacy would result from the proposed development. The development is considered to be acceptable, and in accordance with Policy SD1 of the Local Plan.

Highways

Ample space is available on site for parking of 2/3 cars and no changes are proposed to the existing access. Highways have raised no objections and the proposed would not result in any harmful impact to highway safety in this instance.

Flood Risk

The application site is within an area at risk of flooding. However, the limited extensions to the footprint on the building will not add to this risk to any significant degree. EA standing advice applies to extensions in areas at risk of flooding whereby the extensions should be designed to incorporate flood resilience measures. This can be included as a condition.

Other Matters

The neighbour at No. 5 has raised some concerns on the shared boundary wall on the western boundary. The applicants are happy to step the extension in to avoid this wall being impacted at all from the development. This can be conditioned to ensure the wall is not impacted in any way.

The plant room as labelled on the plans will be a utility room where a washing machine and dryer will be installed. This is for domestic use and no excessive noise will arise from this use and therefore raises no concerns.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing(s) ref. Location Plan 22,031 - P - 001, Existing Floor Plans & Block Plan 22,031 - P - 101 A , Existing Elevations 22,031 - P - 102 A, Proposed Site Plan 22,031 - P - 106, Proposed Ground Floor Plan 22,031 - P - 103 A, Proposed First Floor Plan 22,031 - P - 104 A, Proposed Elevations 22,031 - P - 105 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. The development hereby permitted shall, as a minimum, have (a) floor levels set no lower than existing levels and (b) flood proofing incorporated where appropriate and practicable. Any flood proofing shall, once installed, be retained and maintained in working order.

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

5. The dwelling hereby approved shall be used as a single residential property and not be used or converted into a HMO at any time in the future.

Reason: To safeguard the amenities of nearby occupiers and in the interests of highway safety.

6. Before any development is commenced confirmation of any alterations to the existing boundary wall shared with No. 5 Fishpond Lane shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment approved shall remain thereafter.

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

Item No. 1.7

Ref. No. [DMPA/2022/0339](#)

Valid date: 11/05/2022

Applicant: Hilton Parish Council

Proposal: Retain an adventure playground with the following equipment: Inclusive swing, inclusive roundabout, standing swing, Combined climbing tower and slide, 2 zip wires, 2 climbing poles and a calithenics centre as shown on uploaded drawing at Hilton Village Hall, Peacroft Lane, Hilton, Derby, DE65 5GH

Ward: Hilton

Reason for committee determination

This item is presented to Committee as the Council is the owner of the land and therefore the decision cannot be made under delegated authority.

Site Description

The site is a roughly triangular plot of land adjacent to the skate park to the south of Hilton Village Hall. the site is predominantly flat and whilst there are houses to the south the site is predominantly surrounded by other community uses with mature vegetation on the southern and eastern boundaries.

The proposal

As set out in the application description, the proposal is for the retention of an adventure playground including a swing, roundabout, combined climbing tower and slide, two zip wires, 2 climbing poles and a calithenics centre (a tubular structure to assist in gymnastic work out). Most of this equipment benefits from permitted development under Part 12 Class A of the Town and Country Planning (General Permitted Development) Order, except for the climbing tower and slide which is above 4m in height. During the course of considering the application the equipment has been largely installed as shown on the submitted plans and the application description has been amended to reflect this.

Applicant's supporting information

No additional information over and above the application form and plans have been submitted to support the application.

Relevant planning history

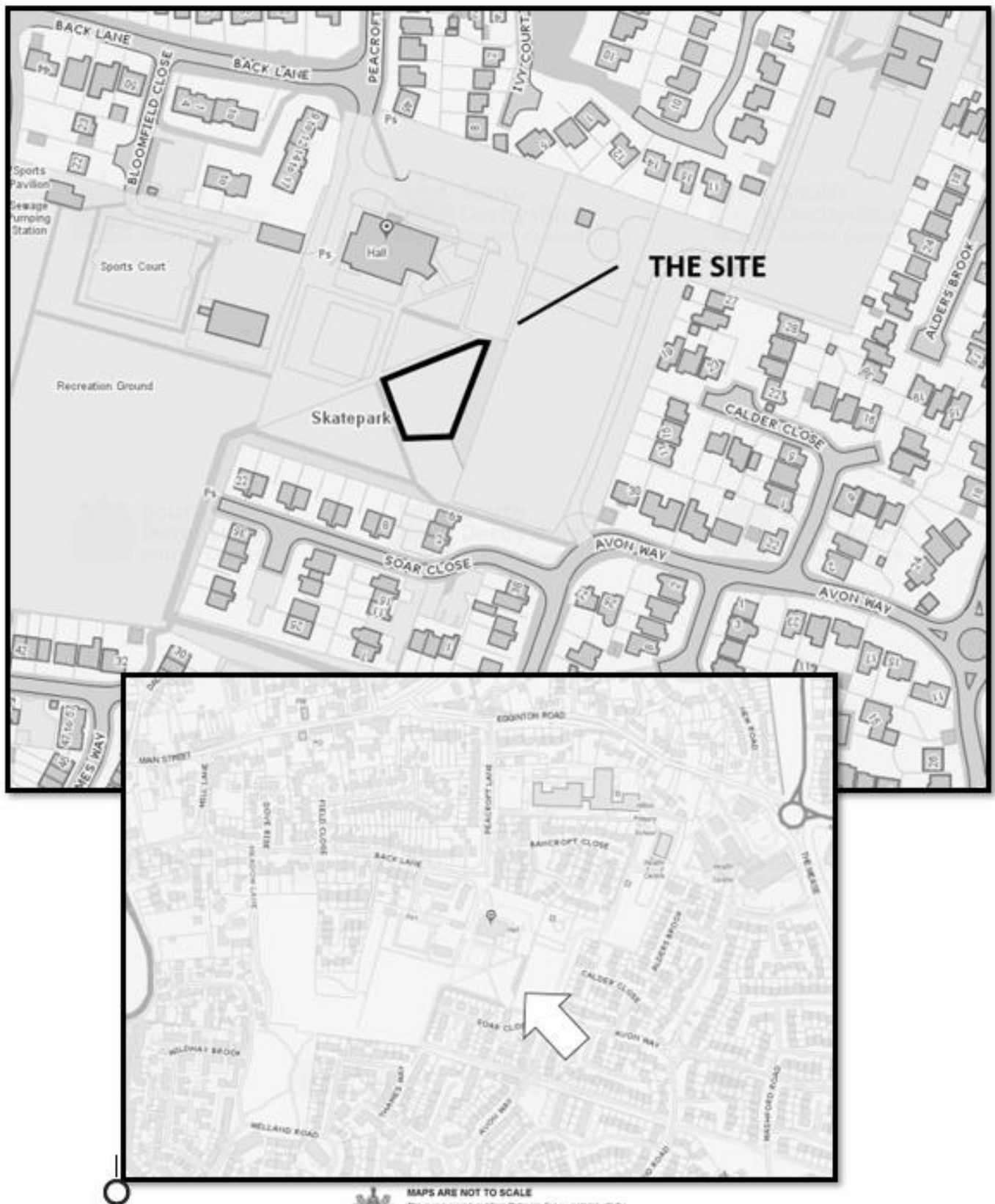
9/2006/0157 - Development of grounds for recreation and leisure - Approved 06/04/2006

Responses to consultations and publicity

SDDC Landscape Architect - Where new development takes place, it should be well related to the existing landscape infrastructure that integrates the proposal with the wider landscape.

- A. All play equipment for early years to 8 years to be fenced, and to include a self-closing gate.
- B. A Landscape Plan is required, to include tree planting, mounds and or boulders, wild flower / bulb area, seats and bins.

**DMPA/2022/0039 - Hilton Village Hall, Peacroft Lane,
Hilton, Derby, DE65 5GH**



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South Derbyshire District Council, LA 100019451, 2020

We require enhancement of the biodiversity, that will mitigate for the increased development of the site. With the use of native species, with consideration to improving local biodiversity including hedgehogs, birds, bats, and bees etc.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), INF6 (Community Facilities)

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

2021 Neighbourhood Plan: L1 (Recreational Facilities)

The relevant National Guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

Planning considerations

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

- Principle of development;
- Design and Amenity impacts; and
- Landscape/Biodiversity

Planning assessment

Principle of development

Hilton is a key service village and the site is an established community facility within the settlement boundary and existing recreation facilities exist set in a large grassed area. The proposal, made by Hilton Parish Council who lease the land from South Derbyshire District Council, is predominantly for structures that do not need permission as they are covered by Schedule 2 Part 12 Class A of the General Permitted Development Order 2015 (as amended) and are less than 4m in height. The only structure that requires consent is the combined climbing tower and slide. This is located in the middle of the new structures and is of a height of approximately 6 metres. The proposal supports policies S1, S2 and INF6 of the Local Plan and L1 of the Neighbourhood Plan being a community facility provided in a sustainable location.

Design and Amenity impacts

Clearly the design of the structure is determined by its use and therefore is not a consideration in this case. However, given the structure that requires consent is similar in materials and finish to the structures that have the benefit of the permitted development, it would be seen in the context of the wider area - a piece of play equipment in an area of open space. The location of the equipment adjacent to other play equipment is therefore logical being centrally located within the village and, although located relatively close to dwellings to the south, is considered not to have any additional adverse effects on neighbour amenity sufficient to comply with SD1 of the Local Plan.

Landscape/Biodiversity

As the site is already part of the open space associated with the village hall and described in the application form as 'mown grass for general play' the structures have simply been installed on the site. Whilst the Landscape Architect requests the fencing in of the play equipment and additional biodiversity net gain, these are considered unreasonable to condition. This is because the equipment appears to be aimed at an age group above 8 years of age and the limited application site is more suitable left as grass. The wider site is relatively well screened by boundary hedges offering some biodiversity habitat. Whilst the proposal is effectively contrary to BNE3, the proposal is so minor that any benefit of the net gain would be negligible. As regards fencing of the equipment; already on site is play equipment fenced in aimed at younger children. Also adjacent is the skate park which is not fenced in. Hilton Parish Council, is a responsible body and if fencing is required under Health and Safety legislation the Parish Council can undertake this without the need for planning permission.

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

Recommendation

Approve subject to conditions.

1. The development hereby permitted shall be carried out in accordance with plans (Location Plan); (Proposed Plan); (Proposed Layout); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

Item No. 1.8

Ref. No. [DMPA/2022/0364](#)

Valid date: 11/03/2022

Applicant: Ian Earl

Agent: TUK Architecture

Proposal: Retrospective planning permission for existing stable block with extension to provide a new Tortoise house and change of use of land to mixed use development to include Zoo and Animal Sanctuary at Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN

Ward: Melbourne

Reason for committee determination

An objection to the application has been made by Historic England, a statutory consultee.

Site Description

The application refers to the site of the zoo/animal sanctuary which has been established within the grounds of the Grade I Listed Historic Park and Gardens associated with Melbourne Hall. The sanctuary, which consists of a number of paddocks and a stables building with an extension to provide a tortoise house, lies close to south-eastern corner of the gardens. The existing building is located close to the boundary of the site, with the associated, fenced paddocks lying in front and to the north and south of the building. The zoo/animal sanctuary is open to the general public and is home to a collection of rare breed animals kept at the site.

Within the gardens a Grade I Listed Pedestal and Four Seasons Vase and a Grade II Listed Icehouse lies in the area of the application site, and a Grade II Listed walled garden lies directly adjacent to the northern boundary.

The Melbourne Hall estate lies on the south-eastern side of the village of Melbourne and within the designated Conservation Area. The stables building and some of the paddocks also lie within Flood Zones 2 and 3.

The proposal

Retrospective planning permission is sought for the change of use of the land specified on the Location Plan from park land associated with the Melbourne Hall Gardens to the sui-generis use of a zoo/animal sanctuary. Retrospective permission is also sought for a stables building used for the animals, along with the extension which provides housing for some Giant Tortoises.

Applicant's supporting information

The application is supported with the following plans and documents :

Site Location Plan

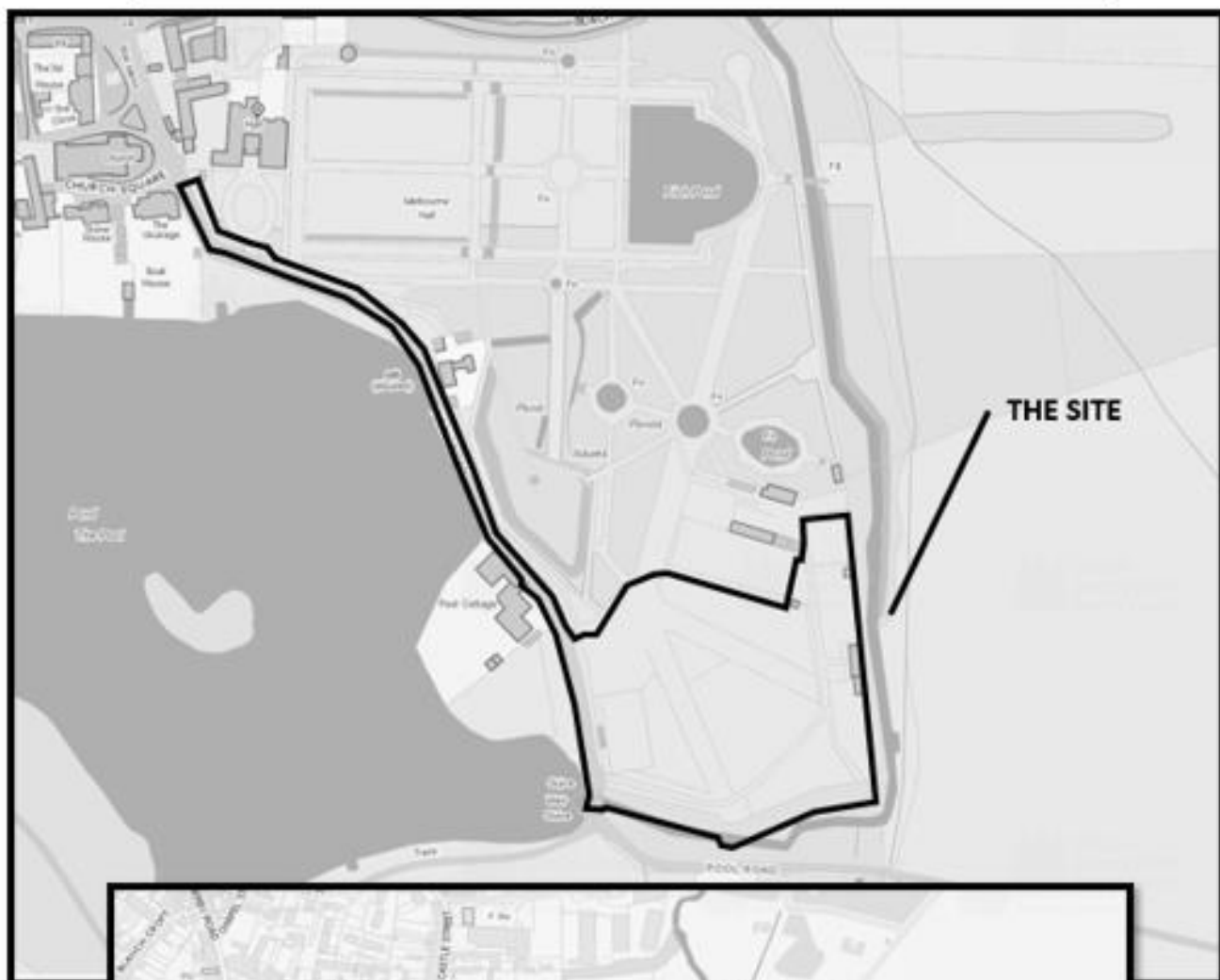
Existing Site Plan

Plans and Elevations of the stable building with extension

Design and Access Statement, with additional supporting letter submitted 8 July 2022

Flood Risk Assessment.

**DMPA/2022/0364- Melbourne Hall, Church
Square, Melbourne, Derby, DE73 8EN**



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Relevant planning history

This specific area of the Melbourne Hall gardens to which this application refers has the following planning history :

DMPA/2019/0838 - The erection of a single storey extension to the existing stable block to provide accommodation for giant tortoises. Application withdrawn 15 May 2020

A concurrent application has also been submitted for retrospective Listed Building Consent for the stables building and extension (DMPA/2022/0540).

Responses to consultations and publicity

Melbourne Parish Council – No objection.

Historic England – Object.

The gardens at Melbourne Hall are a remarkable survival of an early 18th century formal garden, many of which were swept away in later periods. Garden statuary ordered for the garden from the eminent sculptor, Jan van Nost, survives within the garden, adding to the historic, architectural and artistic value and interest of the gardens. The Four Seasons Vase, one of the items of statuary ordered from van Nost's workshop, sits close to the application area, at the junction of radiating formal paths. The vista down the central path terminates at the application site.

The exceptional historic interest of the registered park and garden, and twenty-one statues and other structures, including the Pedestal and Four Seasons Vase, is recognised in their listing at Grade I. The more than special historic interest of the Hall is recognised in its listing at Grade II*. Numerous other listed buildings are listed at Grade II* in recognition of their more than special historic interest, and Grade II, in recognition of their special historic interest. The Hall and registered park and garden are located within the Melbourne Conservation Area.

The application documents are not clear on whether giant tortoises are the only new animals proposed to be introduced, and whether changes to current fencing arrangements, surfacing or other aspects of the garden landscape are proposed. The Heritage Statement does not provide an adequate, or proportionate, assessment of the historic significance and heritage impacts of the proposals, particularly given the very high significance of the heritage assets at Melbourne Hall.

The further extension of the existing stables building, including the addition of a tortoise house, would continue to assert an estate character in an important area of the formal gardens at Melbourne Hall. Further extension of the building into the central vista from the Four Seasons Vase, would make them intrusive in a key historic view.

It is understood that this part of the garden has been used for some time as paddocks, with timber post and rail fencing in place, which is itself not sympathetic to the garden setting. The intensification of the use of this part of the formal garden as a zoo and for keeping animals would be likely to further erode the formal character of the historic landscape. Together with extension of the stable building, this would have a harmful impact on the significance of the registered park and garden, and the significance that the Hall and Four Seasons Vase derive from their designed landscape setting. The harm is considered to be less than substantial.

Policy considerations - National Planning Policy Framework

Reference is made to section 16 of the National Planning Policy Framework (NPPF), in particular paragraphs 194, 195, 197, 199, 200 and 202.

Reference is also made to Historic England's Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (GPA3)

Historic England's position:

Melbourne Hall, its park and garden, and the collection of statuary and other buildings represent a remarkable survival of an early 18th century landscape associated with a country house. It is not clear whether the application documents provide full information on the proposals and proposed new use, and they do not provide an adequate or proportionate assessment of heritage significance, in line with the requirements of paragraph 194, and to support the requirements of paragraph 195 of the NPPF.

The proposals will result in a harmful impact on the character of the registered park and garden, and make the stables building more intrusive in views down the central vista from the Four Seasons Statue. They would not enhance the historic character and significance of the gardens and may result in erosion of the historic character of this part of the gardens. The proposals are not, therefore, in keeping with the requirements of paragraph 197 of the NPPF. The proposals would result in a degree of less than substantial harm to the significance of the registered park and garden, and the significance that the Hall and Four Seasons Vase derive from their designed landscape setting.

Historic England therefore has strong concerns regarding the heritage impact of the proposals. Melbourne Hall, its park and garden, and the collection of statuary and other buildings within it are of the highest historic, architectural and artistic interest. The application documents do not contain adequate information on the proposals, the heritage significance, or heritage impacts, proportionate to the very high significance of the heritage assets. It is clear, however, that the proposals would not enhance the character of the registered park and garden and may further erode the historic character of this part of the gardens. This would result in a degree of less than substantial harm to the registered park and garden, and significance the Hall and the Four Seasons Vase derive from their setting. The authority will need to consider whether there is a clear and convincing justification for the proposals, and sufficient public benefit to outweigh the harm.

District Council Conservation Officer - Support.

The buildings are in situ, and therefore the potential harm to the Heritage Assets can be assessed in person on site. Having visited the gardens during late winter/early spring and during the summer months, when the vegetation coverage has varied, the assessment is that the 'proposed' structures do not result in substantial harm. It is accepted that there is a level of less than substantial harm to the Registered Park & Garden. However, this is considered to be low, and therefore there is no objection to the proposal.

It is confirmed that the report and objection from Historic England has been read and the points made considered. On plan, the proposed stables and tortoise house appear to be in a critical visual path, being at the end of a planned avenue of trees and the vista from an important artwork in the garden. However, the topography of the garden provides for a different experience in person, indeed the long range view out of the garden from the avenue is the prominent view, rather than down towards the boundary wall, as it may appear on plan.

The lightweight construction is of a character expected to see in a garden. The structures can be easily removed should the requirement for them change and therefore this is a reversible action. No attachment is made to the boundary wall, and the area could be cleared and returned to garden without disturbance to the surrounding land.

The enterprise that these structures are required to generate an income to support the upkeep of the estate. This is considered as a longer-term public benefit, which is considered to outweigh the minimal visual intrusion that these timber structures make.

Therefore, it is the recommendation of the Conservation Officer that the application is supported.

Environment Agency – The proposed development falls within Flood Zone 3, which is land defined in the planning practice guidance as being at risk of flooding. The change of use to nature conservation and recreation has a flood risk vulnerability classification of water-compatible, in combination with the scale of development, which can be seen as a minor development which falls under the 'lower risk' category.

County Council as Lead Local Flood Authority – no comments.

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), 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)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

Melbourne Neighbourhood Development Plan – (un-adopted - currently awaiting referendum) :

Policy HC1 - Preservation of the Historical and Cultural Heritage Assets and the existing Conservation Areas will be supported

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

- Principle of development
- Impact of the proposals on the historical significance and setting of the Grade I Listed Melbourne Hall Park and Gardens
- Flood Risk Matters.

Planning assessment

Principle of development

Melbourne Hall lies 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.

The zoo/animal sanctuary is part of the wider offer open to the public as part of a visit to the historic park and gardens, which in turn generates income which allows the estate to remain financially viable and carry out the ongoing care and maintenance of the historic assets.

Notwithstanding this, policy BNE2 states that development is expected to protect, conserve and enhance the District's heritage assets in accordance with national guidance. The proposed change of use of the specified land and associated stable building is therefore considered acceptable in principle subject to compliance with this policy, which is discussed further below.

Impact of the proposals on the historical significance and setting of the Grade I Melbourne Hall Park and Gardens.

Supporting information with the application advises that the paddocks and stables have been located at Melbourne Hall for around 30 years, however, the diversification of the gardens to open them to the public began approximately 5 years ago.

The main stables building consists of three stables and a tack room. It is 13.9 metres by 3.6 metres and the extension added to the building to provide a tortoise house is 9.7 metres by 3.6 metres. The building is clad with lapped timber boarding under a pitched, felt roof with a maximum height of 3.6 metres. The design and materials are considered appropriate for the use and it is noted that in construction it is a 'light weight' structure which could be easily removed and the site re-instated with negligible consequence to the original historic form.

The surrounding land is in use as a number of separate paddocks. Some are enclosed with 1.4 metre high post and rail fencing and some are also lined with the rows of planted trees and hedgerows which make up the original plan form of the gardens.

It is acknowledged that Historic England has raised concerns in relating to the proposal and is of the opinion that the paddocks and fencing are unsympathetic to the historic garden layout and setting and have a harmful impact on the significance of the heritage asset. As detailed by the Council's Conservation Officer, this response has been carefully considered. However, in this case, the on-site situation is considered far less harmful than implied on the plans. The buildings and paddocks are sited some distance from the main Listed buildings on the site and, in particular when viewed on site, it is not considered that the setting and vistas from the Grade I Listed Four Season's Vase are adversely affected or compromised.

Notwithstanding this, it is acknowledged that the development has an impact on the formal layout of the gardens. Historic England considers that the harm is less than substantial and this is accepted. In accordance with paragraph 202 of the NPPF, an assessment is therefore required as to whether the public benefits of the proposal would outweigh this harm.

In relation to this the Agent has advised the diversification of the Gardens of Melbourne Hall provides a revenue stream that is critical to help cover the cost of the ongoing maintenance and staff required to maintain the Gardens in their current condition. Whilst the animal sanctuary is a personal interest of owners, it is also seen as widening the appeal of the gardens to prospective visitors, attracting younger visitors, and families. Every day that the Gardens are open the animals can be seen within their paddocks and fed with feed purchased at the entrance by visitors (excluding the tortoises which are not presently available for public viewing).

It is therefore considered that the benefits of the zoo/animal sanctuary outweigh the less than substantial harm to the heritage assets. The revenue generated from the zoo as part of the visitor experience will contribute to the protection and conservation of the Melbourne Hall gardens and the array of Listed structures within them. 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.

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.

Flood Risk Matters

The stable building and some of the surrounding land in use as paddocks lie within Flood Zones 2 and 3 of the Carr Brook. Accordingly, a Flood Risk Assessment (FRA) has been submitted with the application.

The Environment Agency has confirmed that the use of the building and land is a water compatible use, which is permitted within Flood Zone 3. The Flood Risk Assessment acknowledges that the building displaces approximately 26 cubic metres of floodwater, however, this should be contained within the immediate area surrounding the building and unlikely to impact on areas offsite or to the wider site area. It is therefore not considered that there is a requirement to establish any formal floodplain compensation.

The Lead Local Flood Authority has been consulted and raised no objections to the application. Taking into account the relatively small scale of the building the conclusions of the FRA are deemed acceptable. It is also noted that the finished floor level of the building is slightly raised compared with the outside ground level, to offer some protection should flooding occur.

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

Retrospective approval is recommended for the use of the application site land as a zoo/animal sanctuary and the associated stables and tortoise house extension. It is considered that the harm to the Grade I Listed Registered Park and Gardens and the other Listed structures lying within it is less than substantial and outweighed by the contribution made to the visitor experience to the Hall and Gardens, which in turn provides a revenue stream which facilitates the wider conservation of the heritage assets.

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 condition.

1. The development hereby permitted shall be carried out in accordance with the Location Plan, drawing number 2110-201-A-L01, Site Plan, drawing number 2110-201-A-S01 and Plans and Elevations as proposed, drawing number 21/05/20/1; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

Item No. 1.9

Ref. No. [DMPA/2022/0540](#)

Valid date: 11/03/2022

Applicant: Ian Earl

Agent: TUK Architecture

Proposal: **Listed building consent for retrospective planning permission for existing stable block with extension to provide a new Tortoise house (amended description) at Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN**

Ward: Melbourne

Reason for committee determination

An objection to the application has been made by Historic England, a statutory consultee.

Site Description

The application refers to the site of the zoo/animal sanctuary which has been established within the grounds of the Grade I Listed Historic Park and Gardens associated with Melbourne Hall. The sanctuary, which consists of a number of paddocks and a stables building with an extension to provide a tortoise house, lies close to south-eastern corner of the gardens. The existing building is located close to the boundary of the site, with the associated, fenced paddocks lying in front and to the north and south of the building. The zoo/animal sanctuary is open to the general public and is home to a collection of rare breed animals kept at the site.

Within the gardens a Grade I Listed Pedestal and Four Seasons Vase and a Grade II Listed Icehouse lies in the area of the application site, and a Grade II Listed walled garden lies directly adjacent to the northern boundary.

The Melbourne Hall estate lies on the south-eastern side of the village of Melbourne and within the designated Conservation Area. The stables building and some of the paddocks also lie within Flood Zones 2 and 3.

The proposal

Retrospective Listed Building Consent is sought for a stables building with an extension, which provides housing for various animals associated with a zoo/animal sanctuary located within the Grade I Listed Melbourne Hall Registered Park and Gardens.

Applicant's supporting information

The application is supported with the following plans and documents :

Site Location Plan

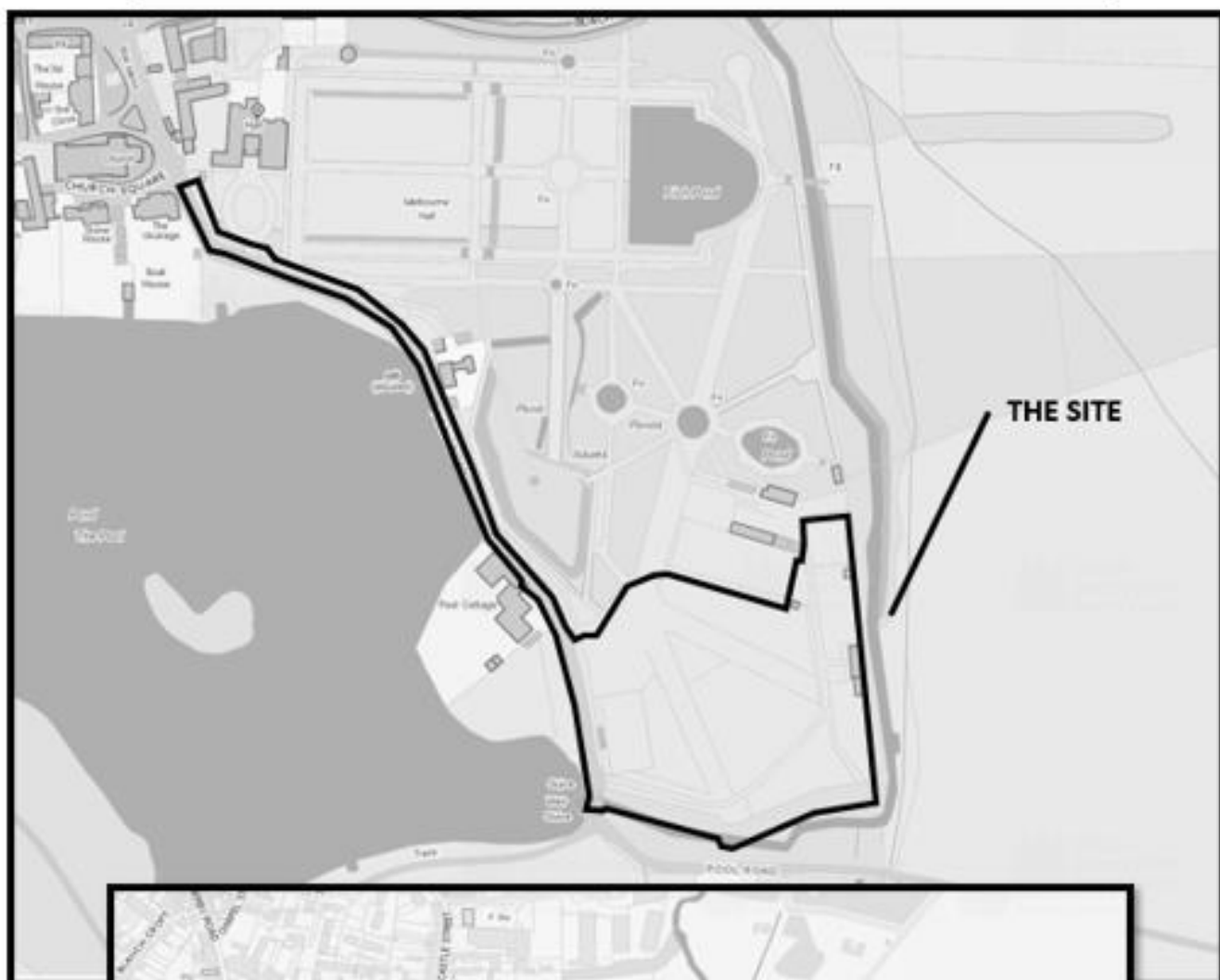
Existing Site Plan

Plans and Elevations of the stable building with extension

Design and Access Statement, with additional supporting letter submitted 8 July 2022

Flood Risk Assessment.

DMPA/2022/0364- Melbourne Hall, Church Square, Melbourne, Derby, DE73 8EN



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South Derbyshire District Council, LA 100019491.2020

Relevant planning history

This specific area of the Melbourne Hall gardens to which this application refers has the following planning history:

DMPA/2019/0838 - The erection of a single storey extension to the existing stable block to provide accommodation for giant tortoises. Application withdrawn 15 May 2020.

A concurrent application has also been submitted for retrospective planning permission for the change of use of the site to sui-generis use as a zoo/animal sanctuary and the stables building and extension (DMPA/2022/0364).

Responses to consultations and publicity

Melbourne Parish Council – No objection.

Historic England – Object.

The gardens at Melbourne Hall are a remarkable survival of an early 18th century formal garden, many of which were swept away in later periods. Garden statuary ordered for the garden from the eminent sculptor, Jan van Nost, survives within the garden, adding to the historic, architectural and artistic value and interest of the gardens. The Four Seasons Vase, one of the items of statuary ordered from van Nost's workshop, sits close to the application area, at the junction of radiating formal paths. The vista down the central path terminates at the application site.

The exceptional historic interest of the registered park and garden, and twenty-one statues and other structures, including the Pedestal and Four Seasons Vase, is recognised in their listing at Grade I. The more than special historic interest of the Hall is recognised in its listing at Grade II*. Numerous other listed buildings are listed at Grade II* in recognition of their more than special historic interest, and Grade II, in recognition of their special historic interest. The Hall and registered park and garden are located within the Melbourne Conservation Area.

The application documents are not clear on whether giant tortoises are the only new animals proposed to be introduced, and whether changes to current fencing arrangements, surfacing or other aspects of the garden landscape are proposed. The Heritage Statement does not provide an adequate, or proportionate, assessment of the historic significance and heritage impacts of the proposals, particularly given the very high significance of the heritage assets at Melbourne Hall.

The further extension of the existing stables building, including the addition of a tortoise house, would continue to assert an estate character in an important area of the formal gardens at Melbourne Hall. Further extension of the building into the central vista from the Four Seasons Vase, would make them intrusive in a key historic view.

It is understood that this part of the garden has been used for some time as paddocks, with timber post and rail fencing in place, which is itself not sympathetic to the garden setting. The intensification of the use of this part of the formal garden as a zoo and for keeping animals would be likely to further erode the formal character of the historic landscape. Together with extension of the stable building, this would have a harmful impact on the significance of the registered park and garden, and the significance that the Hall and Four Seasons Vase derive from their designed landscape setting. The harm is considered to be less than substantial.

Policy considerations - National Planning Policy Framework

Reference is made to section 16 of the National Planning Policy Framework (NPPF), in particular paragraphs 194, 195, 197, 199, 200 and 202.

Reference is also made to Historic England's Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (GPA3)

Historic England's position:

Melbourne Hall, its park and garden, and the collection of statuary and other buildings represent a remarkable survival of an early 18th century landscape associated with a country house. It is not clear whether the application documents provide full information on the proposals and proposed new use, and they do not provide an adequate or proportionate assessment of heritage significance, in line with the requirements of paragraph 194, and to support the requirements of paragraph 195 of the NPPF.

The proposals will result in a harmful impact on the character of the registered park and garden, and make the stables building more intrusive in views down the central vista from the Four Seasons Statue. They would not enhance the historic character and significance of the gardens and may result in erosion of the historic character of this part of the gardens. The proposals are not, therefore, in keeping with the requirements of paragraph 197 of the NPPF. The proposals would result in a degree of less than substantial harm to the significance of the registered park and garden, and the significance that the Hall and Four Seasons Vase derive from their designed landscape setting.

Historic England therefore has strong concerns regarding the heritage impact of the proposals. Melbourne Hall, its park and garden, and the collection of statuary and other buildings within it are of the highest historic, architectural and artistic interest. The application documents do not contain adequate information on the proposals, the heritage significance, or heritage impacts, proportionate to the very high significance of the heritage assets. It is clear, however, that the proposals would not enhance the character of the registered park and garden and may further erode the historic character of this part of the gardens. This would result in a degree of less than substantial harm to the registered park and garden, and significance the Hall and the Four Seasons Vase derive from their setting. The authority will need to consider whether there is a clear and convincing justification for the proposals, and sufficient public benefit to outweigh the harm.

District Council Conservation Officer - Support.

The buildings are in situ, and therefore the potential harm to the Heritage Assets can be assessed in person on site. Having visited the gardens during late winter/early spring and during the summer months, when the vegetation coverage has varied, the assessment is that the 'proposed' structures do not result in substantial harm. It is accepted that there is a level of less than substantial harm to the Registered Park & Garden. However, this is considered to be low, and therefore there is no objection to the proposal.

It is confirmed that the report and objection from Historic England has been read and the points made considered. On plan, the proposed stables and tortoise house appear to be in a critical visual path, being at the end of a planned avenue of trees and the vista from an important artwork in the garden. However, the topography of the garden provides for a different experience in person, indeed the long range view out of the garden from the avenue

is the prominent view, rather than down towards the boundary wall, as it may appear on plan.

The lightweight construction is of a character expected to see in a garden. The structures can be easily removed should the requirement for them change and therefore this is a reversible action. No attachment is made to the boundary wall, and the area could be cleared and returned to garden without disturbance to the surrounding land.

The enterprise that these structures are required for generate an income to support the upkeep of the estate. This is considered as a longer-term public benefit, which is considered to outweigh the minimal visual intrusion that these timber structures make.

Therefore, it is the recommendation of the Conservation Officer that the application is supported.

Environment Agency – The proposed development falls within Flood Zone 3, which is land defined in the planning practice guidance as being at risk of flooding. The change of use to nature conservation and recreation has a flood risk vulnerability classification of water-compatible, in combination with the scale of development, which can be seen as a minor development which falls under the 'lower risk' category.

County Council as Lead Local Flood Authority – no comments.

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), 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)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

Melbourne Neighbourhood Development Plan – (un-adopted - currently awaiting referendum) : Policy HC1 - Preservation of the Historical and Cultural Heritage Assets and the existing Conservation Areas will be supported

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Relevant Legislation:

Section 16 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

- Principle of development
- Impact of the proposals on the historical significance and setting of the Grade I Listed Melbourne Hall Park and Gardens.

Planning assessment

Principle of development

Melbourne Hall lies 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.

The zoo/animal sanctuary is part of the wider offer open to the public as part of a visit to the historic park and gardens, which in turn generates income which allows the estate to remain financially viable and carry out the ongoing care and maintenance of the historic assets.

Notwithstanding this, policy BNE2 states that development is expected to protect, conserve and enhance the District's heritage assets in accordance with national guidance. The proposed change of use of the specified land and associated stable building is therefore considered acceptable in principle subject to compliance with this policy, which is discussed further below.

Impact of the proposals on the historical significance and setting of the Grade I Melbourne Hall Park and Gardens.

Supporting information with the application advises that the paddocks and stables have been located at Melbourne Hall for around 30 years, however, the diversification of the gardens to open them to the public began approximately 5 years ago.

The main stables building consists of three stables and a tack room. It is 13.9 metres by 3.6 metres and the extension added to the building to provide a tortoise house is 9.7 metres by 3.6 metres. The building is clad with lapped timber boarding under a pitched, felt roof with a maximum height of 3.6 metres. The design and materials are considered appropriate for the use and it is noted that in construction it is a 'light weight' structure which could be easily removed and the site re-instated with negligible consequence to the original historic form.

The surrounding land is in use as a number of separate paddocks. Some are enclosed with 1.4 metre high post and rail fencing and some are also lined with the rows of planted trees and hedgerows which make up the original plan form of the gardens.

It is acknowledged that Historic England has raised concerns in relating to the proposal and is of the opinion that the paddocks and fencing are unsympathetic to the historic garden layout and setting and have a harmful impact on the significance of the heritage asset. As detailed by the Council's Conservation Officer, this response has been carefully considered. However, in this case, the on-site situation is considered far less harmful than implied on the plans. The buildings and paddocks are sited some distance from the main Listed buildings on the site

and, in particular when viewed on site, it is not considered that the setting and vistas from the Grade I Listed Four Season's Vase are adversely affected or compromised.

Notwithstanding this, it is acknowledged that the development has an impact on the formal layout of the gardens. Historic England considers that the harm is less than substantial and this is agreed with. In accordance with paragraph 202 of the NPPF, an opinion is therefore required as to whether the public benefits of the proposal would outweigh this harm.

In relation to this the Agent has advised the diversification of the Gardens of Melbourne Hall provides a revenue stream that is critical to help cover the cost of the ongoing maintenance and staff required to maintain the Gardens in their current condition. Whilst the animal sanctuary is a personal interest of owners, it is also seen as widening the appeal of the gardens to prospective visitors, attracting younger visitors, and families. Every day that the Gardens are open the animals can be seen within their paddocks and fed with feed purchased at the entrance by visitors (excluding the tortoises which are not presently available for public viewing).

In the opinion of Officers the benefits of the zoo/animal sanctuary outweigh the less than substantial harm to the heritage assets. The revenue generated from the zoo as part of the visitor experience will contribute to the protection and conservation of the Melbourne Hall gardens and the array of Listed structures within them. 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.

The Council also has duties under section 16 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. For the reasons detailed above, it is also considered that the proposal is consistent with the aims and requirements of the primary legislation.

Conclusion

Retrospective approval is recommended for the stables building and tortoise house extension. It is considered that the harm to the Grade I Listed Registered Park and Gardens and the other Listed structures lying within it is less than substantial and outweighed by the contribution made to the visitor experience to the Hall and Gardens, which in turn provides a revenue stream which facilitates the wider conservation of the heritage assets.

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 condition.

1. The works hereby permitted shall be carried out in accordance with the Location Plan, drawing number 2110-201-A-L01, Site Plan, drawing number 2110-201-A-S01 and Plans

and Elevations as proposed, drawing number 21/05/20/1; unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

Item No. 1.10

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 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.

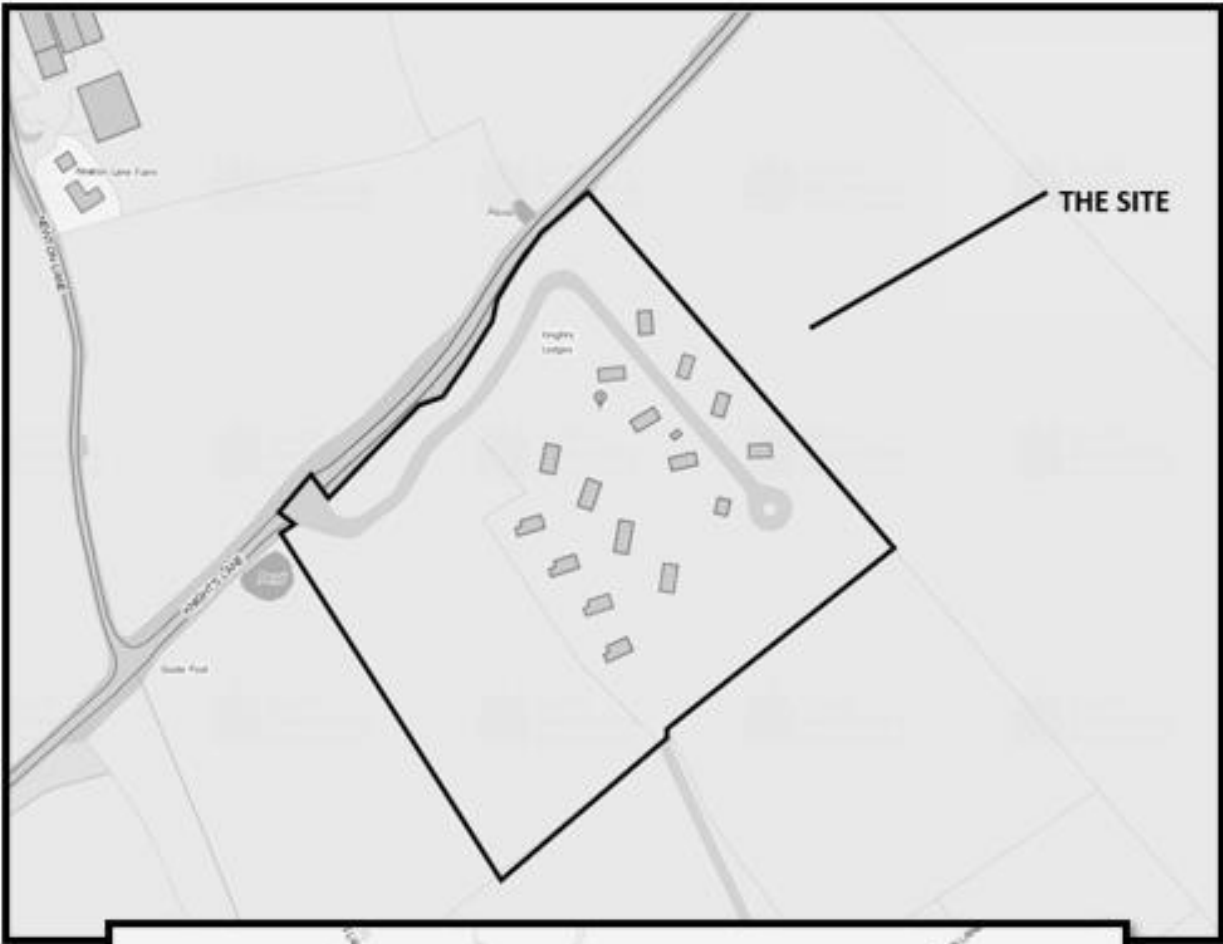
Site Description

The site sits on the south east side of Knights Lane. This is a fairly straight road which runs from Winhill 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 16 cabins erected on site are substantially complete. The easternmost 8 (phase 1) have been approved as built following a committee decision in May. The westernmost 8 (phase 2) have been refused at the same committee. An amended application for phase 2 is with the Council for consideration and will be reported to a future planning committee.

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



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South Derbyshire District Council, LA 100019451.2020

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 438m² to 355m² (gross internal area) 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;

- 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. It is also understood that the applicant is submitting appeals in relation to the two refused applications from May 3 Planning Committee. The earliest possible consideration of this application will reduce the risk of the Council and the applicant being put to unnecessary expense if the issues leading to the refusal of the earlier application can be addressed. The responses below relate to the previously refused scheme, and any further updates will be provided verbally at Committee. It will also be necessary to allow the full three weeks of publicity to expire before issuing a decision. This will be on Monday 1 August.

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.

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 decision, 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. It is noted that these larger units have not been granted planning permission. However, if the amendments to the larger units in phase 2 are approved at a subsequent committee meeting, this is likely to have a greater economic impact to the visitor economy 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. It is also expected that these additional visitors would use the leisure facilities to be provided within this building. Given this decision on the phase 2 lodges is yet to be made, this matter is afforded only limited weight at this time.

Notwithstanding these points it is considered that the amendments to the scheme to be considered in this current application in relation to the leisure building 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 scheme. 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 438 square metres for the refused scheme to 355 square metres now. This compares to 326 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 building, 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 application, 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 for the larger leisure building 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 in relation to the larger refused application, 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 previous larger building 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.

In terms of the timing of this committee decision, there remains a backlog of planning applications which has resulted in the notifications for this and other applications taking longer than is ideal. This has knock on implications for the timing of decisions. In this particular case, the Parish Council and local residents did not have objections to the previously proposed leisure building scheme considered at May 3 Committee which was for a larger building. The decision will not be issued until the expiry of the consultation period after the committee meeting. Any delay in issuing the decision needs to be considered in the context of the applicants exercising their rights for an appeal in relation to the previously refused scheme and in all likelihood this one, if a decision is not reached within the statutory timeframe. There is the additional issue of the applicant having secured grant money in relation to the development on the whole site. This risk is mitigated by the fallback position of having a smaller leisure building permission in place, albeit without a pool.

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 following the expiry of the consultation period for this application and 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.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	26 JULY 2022	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	SARAH BEEBY Sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	DEED OF VARIATION – LAND AT BOULTON MOOR	REF: 9/2016/0166
WARD(S) AFFECTED:	ASTON	TERMS OF REFERENCE:

1. Recommendations

- 1.1 That the Committee approves an amendment to the Section 106 agreement (S106) by means of a Deed of Variation (DoV) to accept total financial contributions of £6,356,145 along with the provision of 12% on site affordable dwellings (66).
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2. Purpose of Report

- 2.1 Members will recall this item was brought to Committee 3rd May 2022 seeking a deed of variation to the S106 for Boulton Moor 2 (BM2) and the original report is attached at the end of this one.
- 2.2 Discussions have taken place with the landowners in an attempt to address the concerns raised by Members on that occasion and this report provides a summary of those discussions and the revised recommendation at section 1.

3.0 Discussion

- 4.1 Subsequent to the Planning Committee's decision to defer taking a decision on the request to vary the S106 Agreement due to concerns over the reduction in affordable housing Officer's discussed the matters raised with the landowners.
- 4.2 The landowners have considered their position and wish the Committee to be aware of the following points in considering their proposals:
 - i. *The original planning application for Boulton Moor Phase 2 was submitted in February 2016. As a result of protracted discussions with Highways England (now National Highways) and Derbyshire County Council Highways, the application was not reported to SDDC's Planning Committee until February 2020. The planning*

permission was issued in July 2020. Due to the unusually long determination period, the landowners felt compelled to secure the planning permission without further delay (unlike a housebuilder who would have been compelled to acquire the land upon the grant of permission).

ii. The landowners commissioned their own viability assessment, prepared by Cushman & Wakefield. Whilst this report was shared with SDDC, it is not the basis of the officer's Committee Report. Instead, in 2021, SDDC appointed the District Valuer (DV) to undertake an independent viability assessment. The landowners and their consultant, Cushman & Wakefield, did not agree fully with the DV's assessment. Thus, the landowners have already accepted concessions in reviewing the viability of this development which has resulted in increases to the revised s106 package recommended to SDDC's Planning Committee on 3rd May 2022.

iii. All viability reviews in planning must accord with the RICS's professional code of conduct. These are mandatory standards which both the DV's report and the landowner's consultant has complied with. The Planning Committee have been provided with a copy of the DV's report; however, we are not aware that any of the inputs or findings have been challenged. The Committee's request to depart from the DV's assessment risks departing from a robust professional basis for reviewing the viability of this development.

iv. The full extent of costs for substantial off-site highway works could not have been established until after the grant of planning permission. Detailed highway drawings which have subsequently been produced to cost each highway scheme have identifies a significant increase in costs above preliminary estimates.

- 4.3 Notwithstanding the above, the landowners wish to agree a way forward which avoids significantly delaying the delivery of this development. To that end they have proposed an uplift in the amount of affordable housing proposed on site to 12%, which equates to a further 11 dwellings, 66 in total.
- 4.4 Whilst it is appreciated that this is a reduction in onsite provision of 17 homes and there would be no off-site contribution (£4,539,061), it is recognised that this additional provision is out with the findings of the DVS and recognises the existing viability pressures associated with the development of the site.

5.0 Conclusions

- 5.1 The obligations attached to the original S106 were proposed so as to ensure the impacts of the development are appropriately mitigated, and whilst the percentage of affordable housing would be reduced in this case, the benefits to the new community in this regard would remain. On balance, whilst there would be some conflict with Policy H21 this is considered the material considerations in favour of the development are considered to override this harm.

Appendix

REPORT TO:	Planning Committee	AGENDA ITEM:
DATE OF MEETING:	3rd May 2022	CATEGORY: Delegated
REPORT FROM:	Head of Planning and Strategic Housing	RESTRICTED
MEMBERS' CONTACT POINT:	Sarah Beeby Sarah.beeby@southderbyshire.gov.uk	DOC:
SUBJECT:	Deed of Variation – OUTLINE APPLICATION (ALL MATTERS TO	REF: 9/2016/0166

**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)**

**WARD(S)
AFFECTED:**

Aston

**TERMS OF
REFERENCE:**

1. Recommendations

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

2. Purpose of Report

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

3. Background

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

Affordable Housing

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

Built facilities

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

Outdoor sports facilities

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

On-site public open space (POS)

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

Off-site public open space contribution

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

Drainage

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

Management company

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

Healthcare contribution

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

Monitoring fee

This schedule sets out the monitoring fee payable.

Education contribution

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

Travel plan monitoring fee

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

4.0 Discussion

- 4.1 A viability assessment has been submitted which has been independently assessed by the District Valuer. This identifies that on the basis of the agreed design, build and abnormal costs, the development would not be able to withstand the full requirement of S106 contributions or affordable housing provision from the values that could be reasonably achieved from the site.
- 4.2 Whilst there are a small number of unagreed details between the District Valuer and the applicant, these are relatively minor points and in taking the view of the District Valuer on these points it remains the case that the development would not be viable on the basis of the whole package of contributions.
- 4.3 Notwithstanding this, there are three alternative scenarios whereby the development could support a certain level of developer contributions and/or affordable housing the first two of these are suggested by the District Valuer with the third being a proposal by the applicant, and these merit serious consideration:
- A. Retain 15% on-site Affordable Housing (on the basis of 60% Social Rent: 40% Shared Ownership), and in order to maximise the amount available for payment of Section 106 financial Contributions, the off-site Affordable Housing financial Contribution would need to be reduced to zero; on this basis the amount available for Section 106 Contributions would be the reduced amount of £5,662,453
- B. Affordable Housing provision retained at 15% on-site and a further 15% by way of off-site financial Contribution in accordance with the requirements of the Section 106 Agreement, the Section 106 Contributions would need to be reduced to a total of £1,360,000 (on the basis of payment prior to occupation of 50% of the dwellings).
- C. Reduce the on-site affordable housing to 10% (a reduction of 5%), in addition to the removal of the off-site housing contribution (i.e. £4,539,061). This would ensure that the level of financial contributions requested could be met in their entirety.
- 4.4 Policy INF1 of the Local Plan identifies that for development that is otherwise in conformity with the plan, but generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure required to support and mitigate the impact of a development is either (i) already in place or (ii) secured.
- 4.5 Policy H21 of the Local Plan (part 1) states that the Council will secure up to 30% of new housing development as affordable housing on sites of over 15 dwellings.
- 4.6 Consideration of the required developer contributions and affordable housing was undertaken by members at Committee in February 2020. Members agreed with the officer recommendation that the contributions sought met the identified legal tests and so were necessary to mitigate the impacts of the development which weighed as a positive material consideration within the overall planning balance.
- 4.7 In relation to development viability, the Planning Practice Guidance (PPG) sets out

that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. Whilst the site was allocated in the Local Plan the costs associated with the development have only been realised as a result of more detailed work undertaken as part, and following approval, of the outline planning permission.

- 4.8 The viability information provided by the developer has been independently assessed and it has been confirmed that it would not be viable for the development to provide the full package of contributions and affordable housing, but that it could support a revised package. Whilst it is acknowledged that the associated benefits of the development would therefore be reduced in this regard; overall the disadvantages on housing delivery associated with non-delivery of the site are considered to be greater. On balance, therefore, a development which delivers a reduced level of contributions/affordable housing is considered preferable.
- 4.9 On accepting the above, it therefore falls to be considered which of the identified scenarios would be most suitable taking into account the applicable planning policy and local circumstances.
- 4.10 The Strategic Housing Team has provided comments on the options. They advise that Boulton Moor is an area of low demand in respect of affordable housing.
- 4.11 It is acknowledged that there is a lesser need for affordable housing in this area for the residents of South Derbyshire, which is acknowledged by the agreement to allow an offsite contribution to be made originally.
- 4.12 Having regard to this, it is considered that option C would offer a more balanced approach to enable the truest localised need for affordable housing to be met whilst ensuring that the pressures on education and good quality and sufficient recreational facilities are appropriately resourced, creating a sustainable community. On balance this is considered an acceptable compromise and is reflective of Corporate Plan aims to secure necessary infrastructure requirements to support development.
- 4.13 The advice of the DVO is that their appraisal remains valid for a period of 12 months (from January 22).
- 4.14 It is Officers view that Policy INF1 and the relevant Planning Practise Guidance allows for a review mechanism within a S106 Agreement. That said noting the passage of time since the report was received from the DVO, the finance implications of the off-site highways works required and the need to secure developers and subsequently submit reserved matters applications, it is considered that an extended review period, which could either be a set period of time or prior to specific phases of the development being commenced, would allow more certainty to prospective developers which would ensure that the site came forward in a timely manner so as to contribute significantly towards the council's five year housing land supply.

5.0 Conclusions

- 5.1 The obligations set out above are proposed so as to ensure the impacts of the

development are appropriately mitigated, and whilst the percentage of affordable housing would be reduced in this case, the benefits to the new community in this regard would remain. On balance, whilst there would be some conflict with Policy H21 this is considered the material considerations in favour of the development are considered to override this harm.

6.0 Financial Implications

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

7.0 Corporate Implications

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

8.0 Community Implications

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