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Date: 31 October 2016

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 08 November 2016 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs. Brown (Vice-Chairman) and Councillors Atkin, Mrs Coe, Ford, Mrs. Hall, Harrison, Stanton and Watson.

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley.

AGENDA

Open to Public and Press

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To receive the Open Minutes of the Meeting held on 27th September 2016

Planning Committee 27th September 2016 Open Minutes **4 - 9**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **10 - 94**
- 6** REMOVAL OF THE NEED TO COMPLY WITH CODE FOR SUSTAINABLE HOMES LEVEL 3 TO BE ACHIEVED FOR AFFORDABLE HOUSING CONTAINED WITHIN THE S106 IN RESPECT OF PLANNING PERMISSION FOR 100 DWELLINGS ON LAND AT WILLINGTON ROAD, ETWALL **95 - 96**
- 7** TREE PRESERVATION ORDER 432 AT 59 JUBILEE CLOSE, MELBOURNE **97 - 98**
- 8** TREE PRESERVATION ORDER 433 AT 33 WOODFIELD DRIVE, SWADLINCOTE **99 - 100**

Exclusion of the Public and Press:

- 9** 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.

- 10** To receive the Exempt Minutes of the Meeting held on 27th September 2016
Planning Committee 27th September 2016 Exempt Minutes
- 11** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.



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PLANNING COMMITTEE

27th September 2016

PRESENT:-

Conservative Group

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Atkin, Coe (substituting for Councillor Stanton), Mrs Coe, Ford, Mrs Hall, Harrison and Watson

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley

In Attendance

Councillors Hewlett and Mrs Plenderleith (Conservative Group)

PL/67 **APOLOGIES**

Apologies for absence from the Meeting were received on behalf of Councillor Stanton (Conservative Group).

PL/68 **MINUTES**

The Open Minutes of the Meetings held on 28th June 2016 (PL/1-PL/20), 19th July 2016 (PL/24-PL32), 9th August 2016 (PL/35-PL/51) and 6th September 2016 (PL/52-PL/66) were taken as read, approved as a true record and signed by the Chairman.

PL/69 **DECLARATIONS OF INTEREST**

Councillor Mrs Brown declared a prejudicial interest in Item 1.6 on the Agenda by virtue of being the applicant.

PL/70 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/71 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/72 **THE ERECTION OF AN AMENITY BUILDING (AMENDMENT TO INCREASE THE SIZE OF THE BUILDING PERMITTED UNDER PERMISSION REF: 9/2010/1085) ON PLOT 1A BROUGHTON CARAVAN PARK SUTTON ROAD CHURCH BROUGHTON DERBY**

The Planning Services Manager informed the Committee that this application had been deferred from the 6th September 2016 Committee in order for a site visit which Members had completed earlier in the day. The report remained as it appeared on the agenda for that committee with minor corrections to the planning history section.

Mr John Casey (applicant) attended the Meeting and addressed Members on this application.

Councillor Mrs Plenderleith addressed the Committee as local Ward Member for Hilton, stating that whilst understanding the reasons for the increase in the size of the building previously permitted, these were exceptional circumstances that were not required across the entire site. Councillor Watson concurred that this was a substantial increase to the size of the facility, and commented that the site was closer to the hamlet of Mount Pleasant than Church Broughton and adjacent to two public footpaths. Councillor Southerd agreed that due to the exceptional circumstances, the recommendation be supported.

RESOLVED:-

That planning permission be granted subject to the conditions set out in the report of the Director of Community & Planning Services.

Abstention: Councillor Watson

PL/73 **THE SUB-DIVISION INTO 2 GYPSY PITCHES AND THE ERECTION OF AMENITY BUILDINGS ON PLOT 2 BROUGHTON CARAVAN PARK SUTTON ROAD CHURCH BROUGHTON DERBY**

The Planning Services Manager informed the Committee that this application had been deferred from the 6th September 2016 Committee in order for a site visit which Members had completed earlier in the day. The report remained as it appeared on the agenda for that committee with minor corrections to the planning history section.

Mr John Casey (applicant) attended the Meeting and addressed Members on this application.

Councillor Mrs Plenderleith addressed the Committee as local Ward Member for Hilton, highlighting that the sub-division and subsequent increase from eight to nine pitches raised concern that this site could overwhelm the nearest settled community of Mount Pleasant. The Councillor referred to the issue of dominance, in that the increase of pitches including the amenity blocks could potentially dominate the thirteen dwellings in the hamlet of Mount Pleasant as well as present an intrusion of the countryside, the proposal would therefore be contrary to policy.

Councillor Southerd requested clarification as to whether the provision of gypsy and traveller sites was based on requirement or fulfilment of the five-year supply. The Planning Services Manager clarified that pitches needed to be found on a rolling five-year supply as is the case for housing requirements.

It was stated that as an authority, South Derbyshire had a good record with regards to gypsy site provision, however, the exceptional size of the two amenity blocks and the sub-division increasing the number of pitches presented an intrusion into the countryside and would dominate the nearest settled community.

RESOLVED:-

That planning permission be refused contrary to officer recommendation on the grounds that this application is contrary to policy, the new amenity blocks were too intrusive and that the additional pitch amounts to undue dominance of the nearest settled community

Councillor Mrs Plenderleith left the Meeting at 6:20pm.

PL/74 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF 95 DWELLINGS TOGETHER WITH HIGHWAYS INFRASTRUCTURE, LANDSCAPING, PUBLIC SPACE AND DEMOLITION OF EXISTING DWELLING ON LAND AT SK3021 4304 BURTON ROAD MIDWAY SWADLINCOTE**

The Planning Services Manager presented the report highlighting that the site fell outside the settlement confine, was intrusive on the landscape and that a Tree Preservation Order had been issued in respect of a number of trees on the site.

Ms Lisa Vale (objector) and Mr Jonathan Vose (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Dr Pearson addressed the Committee as local Ward Member for Midway, speaking also on behalf of his Ward colleagues by commending the local residents of Midway for their vigour to protest. The Councillor commented on the shortcomings of the site in terms of highways, ecology and landscape, and so would not amount to sustainable development.

RESOLVED:-

That planning permission not be granted as recommended in the report of the Director of Community & Planning Services.

PL/75 **CONVERSION OF PUBLIC HOUSE AND RESTAURANT INTO TWO DWELLINGS AND THE ERECTION OF FIVE DWELLINGS ON ASSOCIATED LAND AT THE MELBOURNE ARMS 92 ASHBY ROAD MELBOURNE DERBY**

The Principal Area Planning Officer presented the report highlighting suggested amendments to the conditions, particularly to alter the implementation triggers.

Councillor Hewlett addressed the Committee as local Ward Member for Melbourne, drawing attention to the potential impact this proposal would have on local services, lack of Section 106 contribution, use of appropriate materials and the retention and specification of the boundary hedge. These points were addressed by the Principal Area Planning Officer.

RESOLVED:-

That permission be granted as recommendation in the report of the Director of Community & Planning Services, subject to amendments to conditions to increase use of rubble stone on Plots 1 and 2, to alter implementation triggers and to alter landscape condition to require hedge planting on the Robinsons Hill frontage.

PL/76 **RELEVANT DEMOLITION CONSENT (RETROSPECTIVE) FOR PARTIAL DEMOLITION OF PUBLIC HOUSE AND RESTAURANT AT THE MELBOURNE ARMS 92 ASHBY ROAD MELBOURNE DERBY**

This application was considered jointly with the application above.

PL/77 **THE REMOVAL OF APPROXIMATELY 22M (LENGTH) OF TOPSOIL FROM SECTION OF EXISTING FLOOD DEFENCE EMBANKMENT AND RAISING OF EMBANKMENT TO REQUISITE LEVELS USING THE EXCAVATED AND ADDITIONAL IMPORTED TOPSOIL ON LAND AT SK4330 8021 LONDON ROAD SHARDLOW DERBY**

The Principal Area Planning Officer presented the report, highlighting its purpose to help repair a section of the flood bank which had suffered livestock erosion.

RESOLVED:-

That permission be granted as recommendation in the report of the Director of Community & Planning Services.

Councillor Mrs Brown left the Chamber at 7:15pm

PL/78 **CHANGE OF USE OF THE DWELLING TO A MIXED USE COMPRISING A DWELLING AND BED AND BREAKFAST ACCOMMODATION (USE CLASS C1 - HOTELS), THE VARIATION OF CONDITION 2 OF PLANNING PERMISSION 9/2011/0769 TO ALLOW THE GRANNY ANNEXE TO BE USED AS EITHER ACCOMMODATION FOR EITHER MEMBERS OF THE HOUSEHOLD OF THE OLD RECTORY OR BY DOMESTIC STAFF OR SELF-CONTAINED HOLIDAY ACCOMMODATION AND THE VARIATION OF CONDITION 4 OF PLANNING PERMISSION 9/2014/0238 TO ALLOW THE CARERS ACCOMMODATION TO BE USED AS ACCOMMODATION FOR EITHER MEMBERS OF THE HOUSEHOLD OF THE OLD RECTORY OR BY DOMESTIC STAFF OR SELF-CONTAINED HOLIDAY ACCOMMODATION AT THE OLD RECTORY CHURCH ROAD EGGINTON DERBY**

RESOLVED:-

That permission be granted as recommended in the report of the Director of Community & Planning Services.

Councillor Mrs Brown returned to the Chamber at 7:20pm.

PL/79 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 34 DWELLINGS ON LAND AT SK3825 9087 JAWBONE LANE KINGS NEWTON DERBY**

The Principle Area Planning Officer reported additional comments received.

Ms Jessica Long (objector) and Mr Tom Collins (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Hewlett addressed the Committee as local Ward Member for Melbourne highlighting that the site is located outside the village confine, its effects on the setting of the Kings Newton conservation area, and due to the requirements set in the Local Plan, there being no additional need for this development.

RESOLVED:-

That planning permission not be granted as recommended in the report of the Director of Community & Planning Services.

PL/80 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT MINUTES

The Exempt Minutes of the meeting held on the 28th June 2016 (PL/21-PL/23) and 19th July 2016 (PL/33-PL/34) were taken as read, approved as a true record and signed by the Chairman.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at 7.35pm.

COUNCILLOR A ROBERTS

CHAIRMAN

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

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
9/2016/0322	1.1	Woodville	Woodville	12
9/2016/0344	1.2	Woodville	Woodville	36
9/2016/0564	1.3	Mickleover	Etwall	39
9/2016/0359	1.4	Etwall	Etwall	50
9/2016/0392	1.5	Etwall	Etwall	59
9/2016/0642	1.6	Etwall	Etwall	66
9/2016/0577	2.1	Aston-on-Trent	Aston	72

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

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

Item **1.1**

Reg. No. **9/2016/0322/SMD**

Applicant:
Mr Mick Goodwin
Goodwin Building Contractors Ltd
98 Main Street
Linton
Swadlincote
DE12 6QA

Agent:
Mr Stephen Eaton
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton on Trent
Staffordshire
DE14 1NG

Proposal: **RESIDENTIAL DEVELOPMENT OF 27 AFFORDABLE
HOUSING UNITS AT THE FORMER BRETBY POTTERY
SITE SWADLINCOTE ROAD WOODVILLE
SWADLINCOTE**

Ward: **Woodville**

Valid Date: **11/04/2016**

This application is to be considered jointly with application 9/2016/0344 below.

Members will recall deferring the determination of this case (and the accompanying application for Listed Building Consent) at the meeting on the 9th August in order to undertake additional noise survey work at the site. Any additions to the report are provided in *italics* otherwise the report remains originally set out.

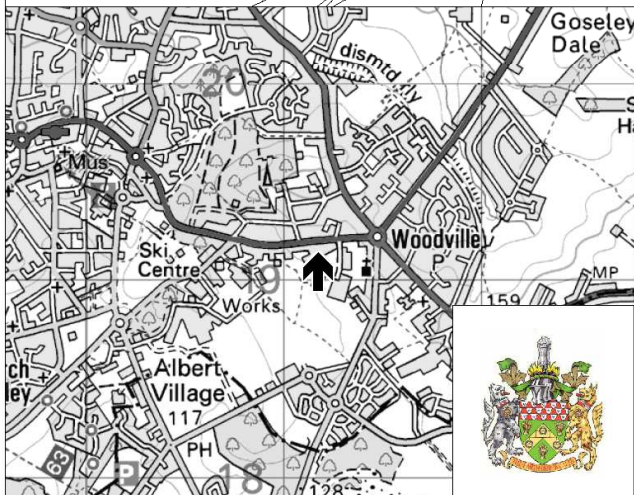
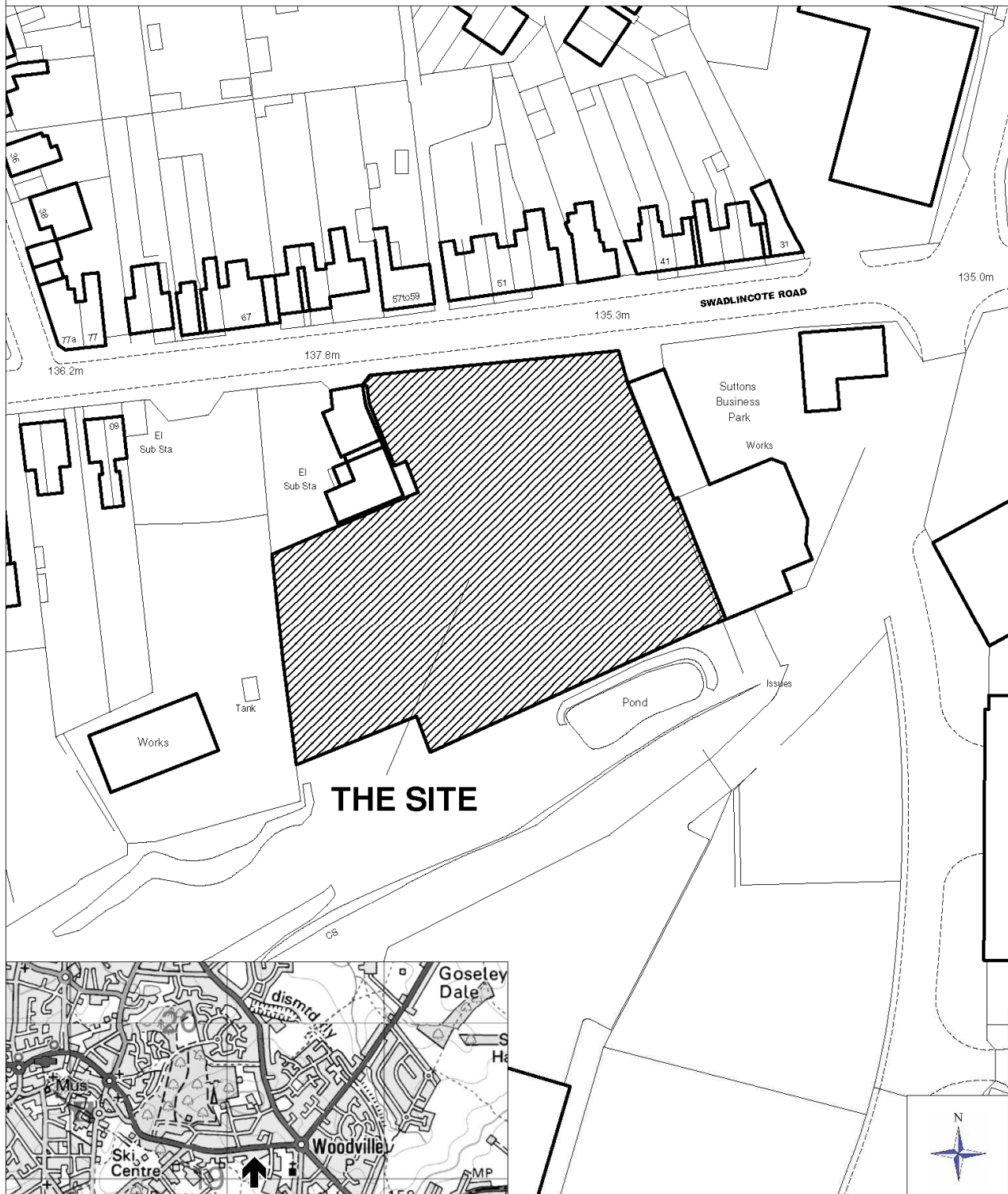
Reason for committee determination

These applications for planning and listed building consent are presented to Committee at the request of Councillor Stephen Taylor as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee.

Site Description

The application site extends to 0.57ha and was previously occupied by a number of B2 (industrial) buildings associated with the Bretby Art Pottery. The site has been cleared of any buildings, save for the Grade II Listed Bretby Art Pottery showroom, which whilst outside the site, is closely associated with the site and plays a key part of the sites relationship to its surroundings.

**9/2016/0322 & 0344 - Former Bretby Pottery Site, Swadlincote Road,
Woodville, Swadlincote DE11 8DB**



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The site is located to the east of Swadlincote Town centre, and approximately 350m from the Clock Island within the Swadlincote urban area. The site is bound to the north by Swadlincote Road, with existing Victorian terraced dwellings on the opposite side. The eastern boundary is formed by a single storey office building of brick and tile construction, with an area of scrub vegetation to the south of the site beyond which lies an existing haulage yard. The western boundary to the south of the Bretby Art Pottery building is shared with an existing scaffolding business.

The topography of the site has a slight fall to the south and east, with the site levels approximately 1m lower than Swadlincote Road, and 1.5m lower than the existing dwellings on the opposite side of Swadlincote Road.

Proposal

The application proposes the erection of 27 dwellings for affordable housing purposes, comprising 10 one-bed dwellings; 10 two-bed dwellings; 5 three-bed dwellings; and 2 four-bed dwellings – all provided as a mix of maisonettes, terraced and semi-detached properties. A mix of social rented, affordable rented and intermediate housing is envisaged; the tenure and occupancy of the dwellings administered by Trent & Dove Housing. Vehicular access is proposed from Swadlincote Road, adjacent to the Bretby Art Pottery building, and an internal road would provide access to a shared driveway along the site frontage with dwellings set back from the northern boundary; as well as a central square and private driveways/courtyards beyond. A mix of parking solutions would provide for 2 spaces per dwelling, except for 1 bed units which are provided with at least 1.5 spaces per dwelling. Most properties would benefit from private amenity space and communal areas and bin storage for the other dwellings.

The application for listed building consent is required for the works to demolish the existing boundary wall to Swadlincote Road and its rebuild it to a reduced height of 900mm along its length (save for across the proposed access).

Applicant's supporting information

A Design & Access Statement (DAS) sets out the background to the proposals, a description of the site, an assessment of the relevant planning policy, the urban context of the site, and the constraints and opportunities that the site presents. The DAS highlights the importance of opening up views of the Bretby Art Pottery building and framing the existing building within the street scene, the enclosure of the streets, and the importance of providing vistas and focal areas within the scheme. The mix of housing within the scheme has been developed in conjunction with local housing associations and responds to local needs. The layout provides a well-defined square, overlooked on all sides with dwellings sited to provide strong frontages and individual curtilages. The individual dwellings look to provide a contemporary design with traditional elements of roofscape, size and identity. The use of render provides variation within the scheme and the overall materials are utilised to provide an uplifting, clean and sharp design feature.

The Heritage Statement highlights the importance of the Bretby Art Pottery showroom, and sets out the design rationale behind the proposed siting in order to

improve the setting of the building and improve its appearance within the street scene. The proposed development is considered to have a positive impact on the listed building. The materials, landscaping and boundary treatments are considered to be sympathetic to the listed building.

A Noise Assessment sets out the policy background in the form of the National Planning Policy Guidance – Noise, the British Standard and the World Health Organisations standards. The site is affected by noise from 4 sources; local traffic on Swadlincote Road; the Safe Scaffolding site to the west (operating generally during weekday daytime hours); Ward Recycling to the east (which operates throughout the week) ; and Jeffrey's Haulage to the south of the site (which operates into the weekday evenings but with 24/7 transport operation and call outs). Noise monitoring has been undertaken at the site, at locations relating to the above noise sources. The Assessment then discusses the site layout relative to the noise sources and makes specific recommendations relating to the glazing and ventilation required in order to mitigate noise from the road, and the surrounding industrial uses. This recommendation has included the provision of a 2.6m high acoustic fence along the western, eastern and southern boundaries of the site. The recommendations include specifications for the wall, roof, all windows which overlook Swadlincote Road, all other windows, and the provision of mechanical ventilation within the dwellings in order that the noise environment for all dwellings do not exceed the levels required by the World Health Organisation figures detailed in the British Standard.

An updated Noise Assessment has been submitted which considers the policy basis for decisions on planning applications where noise is considered to be a concern. This relates to the PPG and the use of qualitative standards in the consideration of noise impacts rather than the use of specific and measured noise levels recognising that planning consent should be granted provided that the noise can be mitigated and the intrusion reduced to a minimum (i.e. though mitigation as discussed above). The PPG also acknowledges other matters that can aid in the mitigation of noise on residential developments:

- *a relatively quiet facade (containing windows to habitable rooms) as part of their dwelling; and/or*
- *a relatively quiet external amenity space for their sole use (e.g. a garden or balcony) – although the existence of a garden or balcony is generally desirable, the intended benefits would be reduced with increasing noise exposure and could be such that significant adverse effects occur; and/or;*
- *a relatively quiet, protected, nearby external amenity space for sole use by a limited group of residents as part of the amenity of their dwellings; and/or*
- *a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance).*

It is acknowledged that whilst noise levels within some of the private amenity spaces would not be ideal, residents would have access to public or communal external 'quiet' amenity space, which can partially off-set the impact of noise on residential developments.

Residents at the development would have easy access to Swadlincote Woodlands (at a distance of some 450m) and Maurice Lea Memorial Park (at a distance of some 1,150m). There are also a number of other green spaces in the surrounding areas. Therefore, the PPG would suggest that as residents would have ready access to local green spaces, elevated external noise levels should not be a barrier to development as an alternative method of mitigation is available.

A plan of the site relative to the local noise sources is provided, which details the location of the site and two recently approved and constructed residential developments at Rose Hill and Moira Road that are closer to the more prevalent noise sources than the application site. The report notes that these sites have not been the subject of recurring noise complaints, and contain less robust mitigation measures than proposed within the current application. Noise monitoring at each of these sites indicates that the levels are higher (5-7db) than at the application site. Given the successful continued residential occupation of those sites it is considered unlikely that residents here would complain about the existing noise environment.

The Transport Statement considers that, following the trip prediction for the site and the location of the site on one of the main thoroughfares in the District; the traffic impacts are considered to be minimal.

A Reptile and Newt Survey found, following no evidence of reptiles on the site and only 4 amphibians present (one common frog and three toads). The report therefore concludes that the site is not currently used by either reptiles or Great Crested Newts and the only recommendation is for the provision of a frog/toad house within the scheme.

A Bird and Bat Presence/Absence Survey Report finds that whilst the existing Bretby Art Pottery building has the potential to support roosting bats, none were recorded during the dusk activity surveys. This is probably due to the high levels of light pollution within the surrounding area, therefore the refurbishment of the building (whilst not the subject of this application) would have a negligible effect on the bird population. Feral pigeons are also noted to be currently nesting within the building, and as such any works to the building should be undertaken outside the bird nesting season but as pigeons tend to breed all year round it is recommended that the building is surveyed before any works are carried out, and that the building is secured to prevent re-entry.

The Drainage Strategy outlines the foul and surface water strategy for the site, which includes a pumped surface water solution with subterranean attenuation which represents a 64% reduction in the current runoff rate. The foul water is proposed to outfall to the existing manhole (confirmed as acceptable by Severn Trent Water).

A Geotechnical Investigation notes that trial pits and sample boreholes were undertaken at the site, in addition to chemical analysis and ground gas monitoring of the site. The surveys indicate the potential for contaminants to be present on the site, including the potential for shallow mine workings. In order to fully determine more accurately the effect of some of the identified hazards on the development, further investigation is recommended.

A Viability Assessment outlines that the build and infrastructure costs of the proposed development would not be sufficient to give surplus over and above the projected development costs. Therefore contributions to off-site infrastructure would result in the development becoming unviable and undeliverable.

Planning History

9/2006/0278 The erection of a residential development comprising of the conversion of an existing listed building into a dwelling and erection apartments and houses with associated external works. Refused for the following reason:

“The potential noise intrusion from commercial sites in the vicinity would cause unacceptable living conditions for future occupiers of the application site”.

The proposal was then the subject of an appeal (APP/F1040/A/06/2029140). The Inspector noted that the site is in a noise-sensitive location bordered by commercial sites and Swadlincote Road. In considering the submitted noise assessments the Inspector opined that the proposed mitigation measures might reasonably reduce the noise impacts from the commercial premises to the east, south and west. In terms of the noise from Swadlincote Road the supporting appeal noise assessments recommended that there should be no habitable rooms facing the highway but the submitted plans included bedrooms facing the highway. The inspector dismissed the appeal as the submitted plans did not comply with the recommendations within the noise assessment.

Responses to Consultations

The Conservation Officer notes the existing Pottery building directly to the north west of the site is currently on the Derbyshire County heritage at risk list as it has been previously vandalised, although the building has recently been taken on by the Heritage Trust with a view of reusing the building. The Conservation Officer hopes that a contribution could be made towards the restoration of the building which would benefit the wider site. In terms of the proposal, the design and layout is considered to relate well to the building in a positive manner and protect views of the building from the Woodville approach. Whilst the material and detailing of the dwellings and landscaping will be important, the development is considered to cause less than substantial harm to the setting of the Pottery building. In terms of the listed wall, it is noted that parts of the wall closest to the building are later concrete additions which would benefit from being replaced in brick so as to remove a currently detracting feature. The proposals include the rebuilding of the existing brick wall to Swadlincote Road to 900mm tall and it is requested that the existing bricks and copings are utilised where possible. Overall it is considered that the enhancement of the setting of the listed building would provide the substantial public benefit necessary to justify the alterations to the wall and the development of the site.

Historic England considers that the Bretby Art Pottery showroom “is a delightful building and can be linked directly to the important pottery industry which shaped Swadlincote”. The building has been taken on by the Heritage Trust whose intention

is to secure its repair and re-use. Without this the development of the land directly adjacent to the building would be a significant cause for concern. The advice is that the Council satisfies itself that the proposed development does not prejudice the viability of the Grade II listed building. An important consideration will be appropriate landscaping and layout adjacent to the Art Pottery and that the boundary wall to be demolished is rebuilt using traditional construction methods and materials and to a high quality.

The Heritage Trust comment that they have recently acquired the adjacent listed building and, following amendments to the design of the proposed boundary wall, are content with the proposed development.

The Environmental Health Officer has carefully considered the submitted noise assessments and following additional site surveys is satisfied that a suitable living environment could be provided subject to the detailed mitigation measures outlined being implemented.

Following consideration of the site assessment and additional noise surveys, it is agreed that the two main sources of noise that have a material impact on the site are the operations at Ward Recycling and at Jeffrey's Haulage. The noise survey results, taking into account the proposed mitigation measures within the building fabric, are considered to provide a suitable living environment within the proposed dwellings. One area where the noise environment cannot be as easily mitigated relates to the external amenity space noise levels.

The Environmental Health Manager agrees with the assessments undertaken that the noise from Jeffrey's Haulage can be adequately mitigated though the provision of the proposed acoustic fencing. The noise emissions from Ward Recycling pose a slightly different consideration due to the potential peaks in noise dependent on the activities taking place. However, due to the location of Ward Recycling to the east of the site, the existing buildings to the eastern boundary and the screening of the amenity spaces to the majority of the site by the proposed dwellings (with the exception of some of the plots to the southern edge of the site) and as such does not consider that subject to the mitigation measures proposed the proposal would result in an unacceptable noise environment for prospective residents.

It is noted that two recent housing developments have been approved and constructed in closer proximity to the main noise source in this area at Hill Street and Moira Road (Tunnel Lane). To date one complaint has been received from the Rose Hill development regarding noise from Ward Recycling and no complaints have been received from Tunnel Lane where it is understood the dwellings have been occupied for at least 18 months.

The Contaminated Land Officer considers that the development may be at risk from historical contamination and accordingly recommends conditions.

The Strategic Housing Manager considers that the proposed housing mix is appropriate and takes account of the current demand for affordable housing in this location. Conditions are recommended to secure the site for 100% affordable housing provision.

The Coal Authority notes that the site falls within a high risk area and as such there are coal mining risk hazards which need to be considered. As a result, intrusive site investigations are required in order to establish the exact situation regarding coal mining legacy issues on the site and a condition to this effect is recommended.

The County Highway Authority has no highway objections subject to conditions relating to the site access and the provision of car parking. They also note that the internal road is to remain private.

The County Planning Policy Officer advises that the proposed development would generate 2 infant, 3 junior, and 4 secondary age pupils. As Granville Sports College and Woodville CE Junior School are currently under capacity, no mitigation for junior and secondary education is required; but Woodville Infant School is already over capacity. As such a financial contribution of £22,798.02 towards the provision of 2 infant places at this school is requested.

The Development Control Archaeologist considers that as there is significant likelihood that the site contains the remains of the former Bretby Art Pottery, which would be of regional significance. As a result of this, a condition requiring a post-consent scheme of archaeological investigation and recording. This would involve undertaking a phase of evaluation trenching, and targeted open excavation and subsequent recording.

The Lead Local Flood Authority considers that a conditional approval of the development is appropriate for the site drainage. However they are concerned that the submitted proposals do not currently demonstrate that the drainage scheme for the site is adequate, with it necessary to account for the desire to mimic natural drainage rather than a pumped system as proposed.

Derbyshire Wildlife Trust considers that the site has low potential for protected species. This is considering the Extended Phase 1 Habitat Survey, the bat surveys and emergence surveys, and reptile surveys. Conditions are recommended relating to the clearance of the site taking place outside of the bird breeding season (March-August inclusive), the controlled eradication of Japanese Knotweed, and the submission and approval of a Landscape and Ecological Management Plan

Natural England considers that the proposal is unlikely to affect any statutory protected sites or landscapes.

Responses to Publicity

A single letter of objection has been received, noting that it is unclear whether the listed showroom remains in the same ownership as the proposal site. If it is, then it is advanced this proposal should include measures to safeguard the listed building and it is not acceptable that the listed building simply be avoided and side-stepped, especially given its status as a listed building as risk and of such cultural significance to South Derbyshire.

Councillor Taylor notes the site is surrounded on three sides by industry, and on the fourth by a major road that experiences consistent traffic congestion. Bearing in mind the previous planning history and planning appeal dismissal, this location is not suitable for the introduction of residents who would experience the day and night activities of the adjacent sites and the noise attributed to them. It is considered the findings of the previous noise report on the refused appeal are still relevant, and the noise levels have increased since a scaffolding business has started up. The application relies on an acoustic fence. The existing road is also heavily congested and this development would contribute to this congestion. The previous refusal on highway safety grounds and the danger due to visibility of approaching traffic has not been removed and this constitutes unacceptable development. Should this application be determined normal health, education, and recreation 106 monies should apply, and a contribution to traffic relief on the Woodville link road should be made.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation)
- 1998 Local Plan (saved policies): EV13 (Listed or Other Buildings of Architectural or Historic Importance) and EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE11 (Heritage) and INF12 (Provision of Education Facilities)

National Guidance

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

Local Guidance

- Housing Design & Layout SPG 2004
- Better Design for South Derbyshire 2010
- Section 106 – A Guide for Developers
- Strategic Housing Marketing Assessment (SHMA)

Planning Considerations

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

- The principle of development;
- Viability;
- Design, heritage and impact on character of the area; and
- Noise and residential amenity.

Planning Assessment

Principle of Development

The application site is located within the Swadlincote urban area and the re-development of the site would facilitate the re-use of a derelict brownfield site, the site having been rendered without a use following the closure of Bretby Art Pottery a number of years ago. As the site is previously developed land, the principle draws support from policies H1 and S2 which reflect the presumption in favour of and deliver sustainable development. Vacant brownfield sites within the urban area and within settlement boundaries are considered to be the most appropriate locations to support higher density developments to ensure the efficient use of land in the most sustainable locations, in accordance with policy H20.

As set out above the application proposes the development of the site for 100% affordable dwellings the occupancy of which would be controlled by Trent & Dove Housing, assisting with policy H21. Whilst the proposal does not strictly adhere to the housing mix identified within the SHMA, the opportunity to provide one bedroom units is limited within the District and, taking in to account the sustainable nature of the sites location; it is considered appropriate to allow an increased number of smaller dwellings at a higher density which will allow for larger housing to be provided at other locations where they better reflect the local character. Whilst it is accepted that the concentration of affordable housing in one development would promote the provision of mixed communities (i.e. a mix of affordable and market housing), the scheme has set out to establish a high level of urban design with the key aim of enhancing the built environment and providing a sense of place. Hence this is not seen as a significant shortcoming of the development.

Viability

Policy INF1 expects that the needs of occupiers of developments are appropriately supported and relevant impacts mitigated, in the interests of sustainability. However the policy recognises that the viability of developments is a material and mitigating factor when determining the extent and priority of developer contributions, as also acknowledged within policies H20 and H21. The issue of viability is also outlined in the NPPF with the aim of ensuring that developments are deliverable taking into account the costs of development, the required mitigation and ensuring competitive returns for willing land owners and developers.

The submitted viability assessment has been interrogated and demonstrates that the scheme would not be viable if infrastructure contributions were commanded. In this case, education contributions (as outlined above) are requested and considered to be CIL compliant. With no on-site open space, sports or built facilities provision, contributions towards identified projects in the locality would also be justified. There is also some scope to argue a contribution towards the Swadlincote Regeneration Route (SRR) given the additional pressure likely to be generated on the Clock Island, but the degree of impact arising (see below) makes this questionable. Some of these projects might also be better funded through larger contributions from sites yet to be determined. The financial contribution requested by the Conservation Officer towards the upkeep of the Pottery building is also desirable – not essential, such that CIL compliance may be questionable.

The above potential for contributions is however considered to be overridden by the significant benefits this scheme can deliver in respect of affordable housing. Members will be aware that a number of strategic sites around Swadlincote are unable to deliver the policy requirement of 30% affordable housing, and sites such as these and the Rose Hill works nearby are necessary to make up ‘the balance’. This carries significant weight in favour of the proposal. Countering this is the fact that social and environmental needs and impacts might not be adequately served, but it is not considered this point alone makes the development unsustainable in principle. It is therefore considered appropriate to forego any contributions in the interest of ensuring that the proposed affordable comes forward.

Design, heritage and Impact on character of the area

The site is located in an area of mixed architectural styles, some good quality and some in need of improvement. The aim of local and national design policies and guidance is to improve and raise the standard of design rather than simply copying the built form and design existing in an area. Policy BNE1 requires new development to enhance community safety by providing safe areas with good natural surveillance, to provide attractive legible streets, create a sense of place, create a locally inspired character which is visually attractive and respectful of local townscape and heritage, and the creation of continuity and enclosure of the street scene amongst other things. In addition policy BNE2 and saved policy EV13 expects new developments to protect, conserve and enhance heritage assets and their setting, with particular attention given to the industrial heritage of Swadlincote.

As noted above the site is located close to the Grade II listed Bretby Art Pottery building, which is an important part of the industrial heritage of Swadlincote. The site forms an important part of the setting and as such the Council has a duty under the Act to have special regard to this – new development that could affect or harm its setting and significance needs to be carefully considered.

The site formed part of the curtilage of the works associated with the Pottery building, which was formally a showroom for the works on this site. As the only remaining asset, the land formerly associated with it needs to ensure that the long-term future the building is secured. Following the purchase of the site the applicant has separated the site from the listed building and gifted it to the Heritage Trust, a charitable trust formed for the purpose of rescuing buildings at risk throughout the

UK and finding sustainable new uses for these buildings once they are repaired. The gift also included payment of the Heritage Trusts legal fees in securing the transfer of the building. As detailed above the financial viability of the scheme is at tipping point, so it is unfortunate that there are insufficient funds for any financial contributions to be secured towards the restoration of the building. Nonetheless the fact that the building is now in the control of a charitable trust opens up revenue streams to assist with its restoration, whereas previously these might not have been available.

The proposal includes physical works that would significantly improve the setting of the building and its curtilage including; the provision of a new boundary wall to the southern and eastern boundaries of the building; the provision of good quality blue brick clay paviours to the sites entrance; and the reconstruction of the boundary wall to Swadlincote Road. This coupled with the fact that the building has been gifted to the Heritage Trust, equate to a significant level of financial commitment towards safeguarding the future of the building and its setting. Hence whilst there is harm to the fabric of the listed asset (loss of part of the boundary wall) and to its setting; this is considered to be less than substantial and should be weighed in the planning balance.

The design and layout of the scheme has been developed through extensive pre-application and post-submission discussions, with the sensitive setting of the site in mind and the design ethos of Building for Life carried through to the site layout and design. This has included ensuring that the dwellings are sited to respect and improve the main vista of the Pottery building. The dwellings have been sited along a similar line as the existing single storey office building to the east of the site which, coupled with the reduction in height of the existing boundary wall, successfully opens up the view of the listed building when approaching the site from the east. This deliberate siting is considered to succeed in enhancing the setting of the Pottery building and increases its prominence and importance.

In terms of the layout of the site, the dwellings fronting Swadlincote Road is comprised of two blocks of dwellings linked with a car port in order to provide an attractive level of enclosure to the street scene of the site frontage reflective of the traditional Victorian terraced dwellings opposite. The layout of the southern part of the site is centred around the creation of a public square visible from the site access, with dwellings sited to enclose this space and create a sense of place and arrival at the heart of the site. This layout provides a terrace of three dwellings including a feature gable to terminate the vista in to the site from the site access. The two small cul-de-sacs accessed from this central square are well designed to provide defined street frontages appropriately ensuring that the public realm is overlooked by properties, creating active frontages. The layout of the development provides private amenity spaces to the rear of dwellings of two bedrooms or larger, and enhances the amount of space within the site. Two small areas of green open space are proposed, one to the site frontage and the other within the central square, which add to the proposed front gardens to help create a well landscaped development.

The dwellings themselves are of a contemporary design but with traditional proportions such as the overall mass, roof design and pitches which are reflective of the area. The buildings are proposed in a mix of brick and render, which helps to create a varied frontage to the development and provides interests creating a quality

and contemporary built form with an aim of providing a clean and sharp built envelope. The use of appropriate and good quality materials is an important part of ensuring that the design ethos succeeds on the site, and as such the proposed materials and detailing should be secured by condition to ensure that an appropriate approach is undertaken which provides a link to the local vernacular to reinforce and enhance the character of the area. The use of blue brick clay pavements for the pedestrian footways into the site, which reflects the historic building and helps to further improve its setting, as would the new brick wall to the boundary. Overall, Building for Life principles are followed in creating affordable, functional and sustainable homes and a positive and welcoming built environment, in accordance with policy BNE1.

Highway Safety

Vehicular and pedestrian access is proposed from Swadlincote Road adjacent to the Pottery building where the local speed limit is 30mph. The expected traffic generated by the proposed development has been predicted using the TRICS database, which compares the site against a number of similar development sites. This predicts the total AM and PM peak movements, for which this development would result in 16 additional two-way vehicular trips in the AM peak period and 15 in the PM peak period. This level of traffic increase is considered to have a minimal impact on the surrounding network, particularly given differing destinations for drivers; and certainly not result in a significant adverse impact on the local highway network. This further supports the stance that a contribution to the SRR is not warranted.

The application demonstrates that 2.4m x 43m visibility splays can be achieved from the site entrance in both directions, and as such complies with the requirements of Manual for Streets. Pedestrian access is provided either side of the vehicular access and extends to the central square which provides for a shared space, which is considered appropriate for the scale of the development proposed. The central square provides an adequate turning head for waste and service vehicles to manoeuvre within the site. It is noted that the site access and internal roads are to remain unadopted.

Generally by virtue of the site location within the urban area of Swadlincote the site is considered to be a sustainable and accessible location, with services, public transport, education and employment areas within easy walking distance. In terms of parking provision, each of the 17 two-bed-or-more dwellings are provided with two dedicated spaces, with the 10 remaining one-bed dwellings provided with a mix of two spaces and one space plus visitor spaces giving a total of 19 spaces. This would provide a sufficient level of parking in convenient places to ensure that the dedicated spaces are used appropriately. Given the foregoing, and lack of objection from the County Highway Authority, the proposal is considered to accord with policy INF2 and provisions of the NPPF.

Noise and residential amenity

Members will note from the previously refused application in 2006, and the subsequently dismissed appeal, that noise from the surrounding land uses has long been a concern; and that the protection of the amenity of any future occupiers of the

land is an important consideration in determining the acceptability of the residential development of the site. Nonetheless that decision was made in the context of fewer technical solutions to mitigate noise transfer and in a slightly different planning policy context. Policies SD1 and BNE1 set out support for new developments which are not unduly effected by neighbouring land uses. As the site is mostly surrounded by existing commercial uses there are not considered to be any significant impacts on any of the surrounding uses in terms of privacy or impacts on amenity. Proposed dwellings are compliant with separation standards to any existing dwellings opposite the site. The main impacts would be on the prospective future occupiers of the proposed dwellings and the existing commercial operations surrounding the site.

The NPPF is clear at paragraph 123 (and expanded upon in the Noise Policy Statement for England and PPG) that the aim should be to mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise (including the use of conditions). This is somewhat of a change from the previous national guidance on noise as no specific levels or quantifiable thresholds are promoted as acceptable, but rather that the impacts from noise are mitigated and minimised in response to the varying types and sources of noise so as to provide a reasonable level of amenity for new residents.

As detailed above, the site is affected by noise from 4 sources – local traffic on Swadlincote Road, the Safe Scaffolding site to the west, Ward Recycling to the east, and Jeffrey's Haulage to the south of the site. Each of these sources has been the subject of detailed monitoring and measurement following requests from the Environmental Health Officer due to the previous concerns and the site history. *As detailed above, the main sources of noise emanate from Ward Recycling and Jeffrey's Haulage. It is noted that the permitted operating hours for Ward Recycling is 7am – 7pm Monday – Friday and 7am – 5pm Saturday and Sunday.*

Following the monitoring, detailed specifications have been developed setting out the level of insulation and noise attenuation required within each of the dwellings dependent on the closest noise source. Following close scrutiny of the assessment and the recommendations provided for glazing and mechanical ventilation, it is considered that such solutions are feasible and, subject to the recommendations contained within the assessment being complied with, including specific glazing and ventilation specifications to all bedrooms and habitable rooms which face Swadlincote Road; the impacts on occupiers would be acceptable. In addition, the proposals include the provision of 2.6m high acoustic fencing to the eastern, southern and western boundaries of the site that the development of the site for residential purposes is acceptable and would secure an acceptable noise environment for new residents. *This conclusion has been confirmed as acceptable by the Environmental Health Manager through an assessment of the original and additional surveys undertaken at the site and around the area, and it is maintained that a suitable internal noise environment could be provided for residents.*

It is noted the main impact is likely to be on use of external amenity spaces and their usability. The proposed acoustic fencing along the southern boundary (the most sensitive and unscreened area of the site) is considered to be sufficient to mitigate the noise levels from Jeffrey's Haulage. The siting of the proposed dwellings along the boundary to Swadlincote Road and the existing building to the sites eastern

boundary are considered to be sufficient to adequately mitigate and minimise the impact of the wider noise environment on prospective occupiers of the proposed dwellings. Indeed the main noise source is characterised by 'peaks' and 'troughs' in the levels, with large lengths of time where no noisy activities take place, and it is these short lived peaks which make this noise more noticeable.

It also needs to be noted that the site is in close proximity to a number of local areas of open space, which provide for a good level of outdoor amenity space for the proposed residents of the scheme. This provides an alternative for occupants so they are presented with a choice of where to take up leisure activities, meaning they are not solely reliant on private or communal space on site.

In some respects the concept of providing new development in the most sustainable areas, such as brownfield sites within the urban area such as this will inevitably lead to sites being development which are the subject of some form of environmental concerns purely due to the concentration of existing and historic land uses, but as new residents to the site this situation will be apparent to any prospective occupiers.

In terms of external amenity space, a mixture of garden sizes are proposed with each of the maisonettes provided with sufficient space to facilitate bin storage and the drying of washing. Overall the levels proposed are considered to provide sufficient space to allow for appropriate outdoor amenity.

Other Matters

Drainage, coal mining legacy and drainage matters can be addressed by way of conditions, in accordance with policies SD2, SD3 and SD4. With the site having a low potential for protected species and only a few small self-set trees being removed to facilitate the development (whilst new planting can mitigate for this loss), it is considered biodiversity is both adequately safeguarded and enhanced in accordance with policy BNE3. Archaeological matters are discussed above, and can be addressed by condition, in line with policy BNE2 and saved policy ENV14.

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

Conclusion

The proposal facilitates the re-development of a currently vacant brownfield site on a sustainable location, recognising the preference to re-use land of lower environmental value and facilitate regeneration within settlements. The development is considered to meet a recognised need for affordable housing within the District and significant weight is afforded to the 100% provision offered here. The siting and design of the proposed buildings sit appropriately within the setting of the listed building, assisting in improving and enhancing the character and appearance of the area and the setting of the Pottery building. All technical matters in respect of drainage, contamination, highways and so forth are satisfied, subject to conditions.

Whilst it can be acknowledged that there will be some impact on prospective residents by virtue of the existing noise environment at the site as a result of existing land uses, it is considered that the noise environment can be satisfactorily mitigated to an acceptable level. The primary focus for noise concerns is whether occupants would experience unacceptable levels within the dwellings, particularly in respect of periods of sleep and rest. This is not an issue under this proposal given adequate mitigation can be applied. The secondary focus is on the ability to use external areas. Again mitigation can largely achieve an acceptable noise environment within private and communal areas, and it must be considered in the context that the noise sources come and go at various points of the day. Indeed the operating hours at Wards Recycling preclude the most noticeable noise from occurring during the evenings and overnight, allowing unimpeded use of external spaces at these times. There are also alternatives available in the locality to prospective occupants.

The less-than-substantial harm to the heritage asset weighs against the proposal to a degree, as does the inability for the proposal to meet the social needs of its residents and mitigate for some impacts off-site *as well as the less than ideal external noise environment at times*; but the public benefits arising from the proposal are considered to outweigh the harm identified – *especially when the noise impacts cannot be considered in isolation against these gains*; and overall the harm arising from the development is not considered to significantly and demonstrably outweigh the social, economic and environmental benefits brought about.

Recommendation

GRANT planning permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the following Drawing numbers;

2014_351_P03E Proposed Site Plan
2014_351_P04.1 & 2014_351_P04.2 Plots 5/6/22/23
2014_0351_P05.1 & 2014_351_P05.2 Plots 1-4
2014_0351_P06.1a & 2014_351_P06.2a Plots 7-10 & 24-27
2014_0351_P07.1 & 2014_0351_P07.2 Plots 11-14
2014_0351_P08.1 & 2014_0351_P08.2 Plots 15-17
2014_0351_P09.1 & 2014_0351_P09.2 Plots 18 & 19
2014_0351_P10.1a & 2014_0351_P10.2 Plots 20 & 21
2014_0351_D04 Typical Window Detail
2014_0351_D07 Eaves Detail

unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. The hereby approved dwellings shall be constructed in Marley Ashmore tiles, Carlton Minster Wolds Blend bricks and white render as detailed on the approved drawings.

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

4. All electricity and gas meter cupboards shall be located inside the hereby approved dwellings unless otherwise agreed in writing by the Local Planning Authority.

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

5. Gutters, downpipes, fascias and soffits shall have a dark grey finish (RAL7016).

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

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

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene, as well as to protect the aural amenities of occupiers.

7. No removal of buildings, hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

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

8. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

- i. The programme and methodology of site investigation and recording;
- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;

- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
- vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

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

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

Reason: To enable items of archaeological interest to be recorded and/or preserved where possible before the development of the site commences as any development could result in irrevocable loss of archaeological features on the site.

9. No development shall take place on site until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

- i. no less than 100% of housing shall be Affordable Housing.
- ii. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
- iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
- iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

Reason: To ensure the provision of affordable housing within the development.

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

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

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

Reason: In the interests of pollution control and to ensure that a suitable drainage scheme is planned in to the construction of the development.

12. No development shall take place on the site until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:
 - a. into the ground (infiltration);
 - b. to a surface water body;
 - c. to a surface water sewer, highway drain, or another drainage system;
 - d. to a combined sewer.

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 and to ensure that a suitable drainage scheme is planned in to the construction of the development.

13. No development shall take place until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenity of the area, the adjacent Grade II listed building, and the locality generally and ensure that the level of the site are known and secured before any groundworks commence that could compromise the site levels.

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

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

15. a) The development shall not be commenced until the scheme to identify and control any contamination of land, or pollution of controlled waters, defined in GRM desk study and intrusive ground investigation (GRM Ref: P6657-SA1, 7th August 2014) has been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- b) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by any construction or ground works commencing on the site.

16. The development shall not be commenced until the recommendations contained within the GRM Report (Ref P6657-SA1), in particular the following works shall be undertaken;
- a) The submission of a scheme of intrusive site investigations for approval;
- b) The undertaking of that scheme of intrusive site investigations;
- c) The submission of a report of findings arising from the intrusive site investigations;
- d) The submission of a scheme of remedial works for approval; and
- e) The implementation of those remedial works.

with regard to intrusive site investigation works and any resultant remedial works identified by the site investigation shall be completed in accordance with the approved recommendations.

Reason: To protect the health of the public and the environment from hazards arising from the coal mining legacy of the site which might be brought to light by any construction or ground works commencing on the site.

17. No work shall take place on the site until a new vehicular and pedestrian access has been formed to Swadlincote Road in accordance with drawing number 2014_351_P03a, and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the access for a distance of 43m in each direction measured along the nearside

carriageway edge, the land in advance of the visibility sightlines shall be retained throughout the life of the development free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety and to ensure that safe access is provided to the site for construction vehicles.

18. Prior to the construction of any dwellings on site precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details before any dwellings on the site are occupied and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers 'Guidance notes for the Reduction of Obtrusive Light' (2005).

Reason: To preserve amenity and in the interests of the setting of the adjacent Grade II listed building and to ensure an appropriate lighting scheme is planned in to the development.

19. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; prior to the commencement of any construction works on site detailed plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and to ensure that appropriate boundary treatments are planned in to the site development..

20. Prior to the construction of any dwellings on site a scheme of hard and soft landscaping for the site, which shall include all trees, shrubs and hedgerows to be planted and a detailed specification of the ground surfacing materials to all public areas of the site (including dwelling frontages) shall be submitted to and approved by the Local Planning Authority. The hard landscaping scheme shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

21. Prior to the construction of any dwellings on site a landscape and ecological management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority. The approved plan shall be implemented prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

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

22. a) The development shall be completed in accordance with the recommendations contained within Section 8 of the submitted Noise Assessment (June 2016).
- b) Before the development is occupied the completed scheme shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority
- Reason: To protect the amenities of the prospective occupiers of the hereby approved dwellings.
23. Notwithstanding any details submitted before any construction works commence details of the type, size and position of the proposed canopies shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with approved details.
- Reason: In the interests of the appearance of the buildings and the character of the area.
24. Prior to the first occupation of any of the dwellings on site the areas shown on the approved drawing number 2014_351_P03 E for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked. Thereafter those areas shall remain unobstructed for their designated use.
- Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.
25. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- Reason: In the interests of the appearance of the area.
26. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.
- Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.
27. 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 interests of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.
- c. For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp. Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.
- d. 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.
- e. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.
- f. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

- g. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed.
- h. The following clause should be included in the deeds of the dwellings to ensure that at no time will adoption of any part of the access road be sought:
'The leasee or purchaser shall not at any time, either alone or jointly with others, seek adoption of any part of the driveway intended to serve the development as a highway maintainable at the public expense, it being the intention that the same shall at all times remain private up to the point where the same abuts the boundary of Swadlincote Road.'
- i. The applicant is advised to note that the site will need a control programme to eradicate and control the Japanese Knotweed (listed on Schedule 9 of the Wildlife & Countryside Act 1981), and is advised that it is an offence to cause this to spread in the wild.

Item **1.2**

Reg. No. **9/2016/0344/L**

Applicant:
Mr Mick Goodwin
98 Main Street
Linton
Swadlincote
DE12 6QA

Agent:
Mr Stephen Eaton
Urban Designs Ltd
Suite 6
Anson Court
Horninglow Street
Burton on Trent
Staffordshire
DE14 1NG

Proposal: **LISTED BUILDING CONSENT FOR THE DEMOLITION
AND REBUILDING OF THE EXISTING BOUNDARY
WALL FRONTING THE SITE AT THE FORMER BRETBY
POTTERY SITE SWADLINCOTE ROAD WOODVILLE
SWADLINCOTE**

Ward: **Woodville**

Valid Date: **11/04/2016**

This case is submitted in pursuit of the demolition and reconstruction of the existing boundary wall. The merits of the case are examined in the companion application for the redevelopment of the site under 9/2016/0322 above.

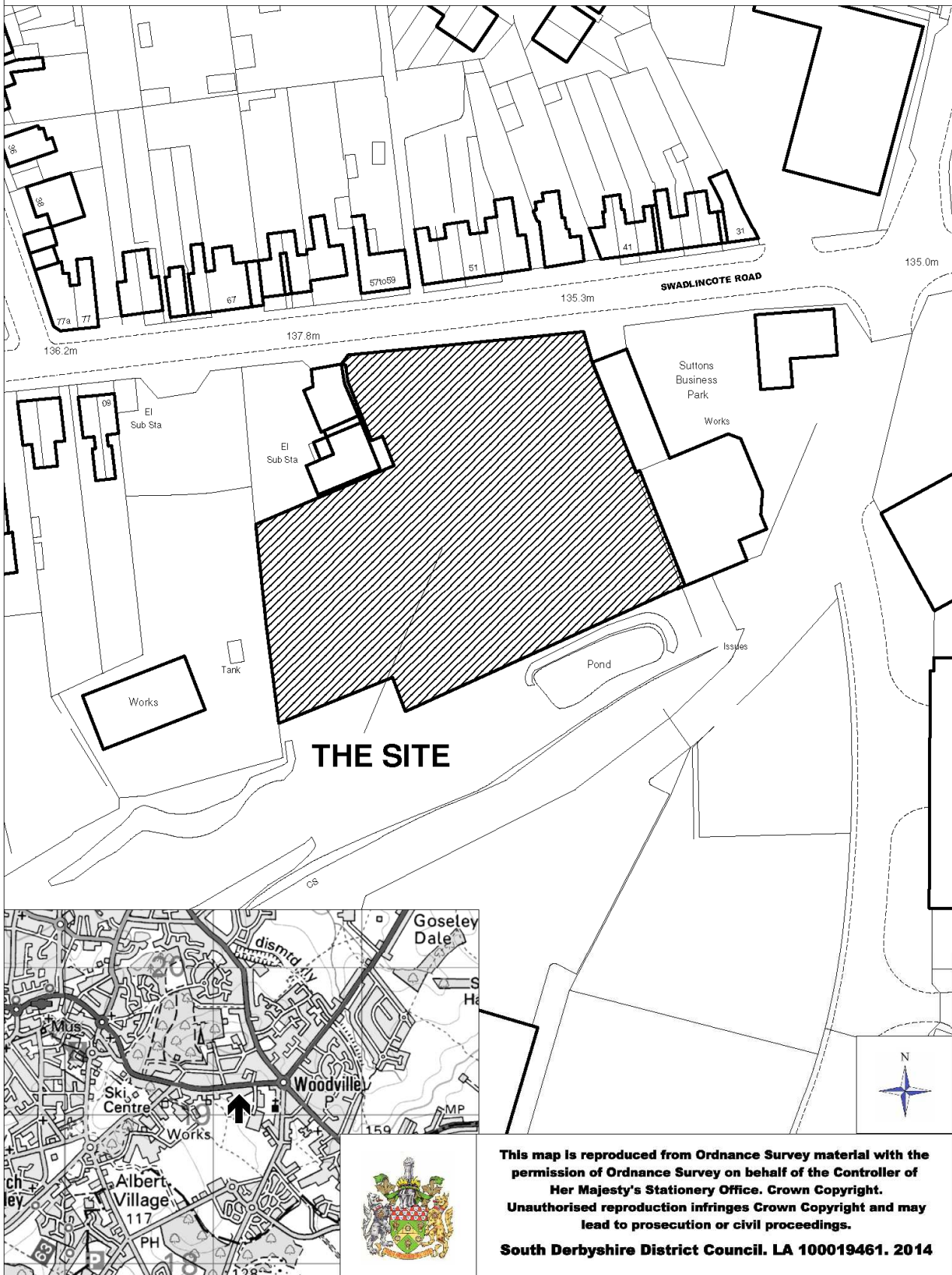
Recommendation

GRANT listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. No demolition of the wall fronting Swadlincote Road shall occur until a contract for the implementation and construction of the development approved under planning permission ref: 9/2016/0322 has been secured. If for any reason that development does not commence within 6 months of the demolition of the existing wall, within 1 month of that date a scheme for the restoration of this wall shall be submitted to and approved in writing by the Local Planning Authority. The boundary shall then be restored in accordance

9/2016/0322 & 0344 - Former Bretby Pottery Site, Swadlincote Road, Woodville, Swadlincote DE11 8DB



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with the approved scheme within 6 months of the date of its approval or in accordance with an approved timetable of restoration.

Reason: To ensure all reasonable steps have been taken to ensure the new development will proceed after the loss of a heritage asset has occurred, in line with paragraph 136 of the NPPF.

3. No works to demolish the boundary wall to Swadlincote Road shall commence until plans and drawings and full details of the height, types and materials of boundary walls to Swadlincote Road and the Bretby Art Pottery building, either as retained or constructed as new, and of the associated pedestrian gate to the curtilage of the Bretby Art Pottery building have been submitted to and approved in writing by the Local Planning Authority. Such drawings shall be based on the layout plan hereby approved and be supplemented with elevational plans to show the typical heights and materials of such fences and walls, accounting for changes in levels where relevant. The boundary wall to Swadlincote Road shall be (re)constructed and capped utilising the existing bricks and copings as far as is practicable, with supplementary bricks and copings as required in accordance with the approved materials. All other walls and the associated pedestrian gate shall be completed in accordance with the approved details before any of the dwellings on site are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, the fabric of the listed structure and the setting of the Grade II listed building.

Informatives:

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

Item **1.3**

Reg. No. **9/2016/0564/RSD**

Applicant:
Mrs Katy Falls
Barratt Homes
2 Horizon Place
Mellors Way
Nottingham Business Park
Nottingham
NG8 6PY

Agent:
Mrs Katy Falls
Barratt Homes
2 Horizon Place
Mellors Way
Nottingham Business Park
Nottingham
NG8 6PY

Proposal: **APPROVAL OF RESERVED MATTERS OF
APPEARANCE, LANDSCAPING, LAYOUT AND SCALE,
AS WELL AS DISCHARGE OF CONDITIONS 5, 11, 14,
15, 31, 35 OF PLANNING PERMISSION REF: 9/2014/1136
FOR THE ERECTION OF 288 DWELLINGS, PUBLIC
OPEN SPACE AND ASSOCIATED INFRASTRUCTURE
AT NEW HOUSE FARM ETWALL ROAD MICKLEOVER
DERBY**

Ward: **Etwall**

Valid Date: **02/06/2016**

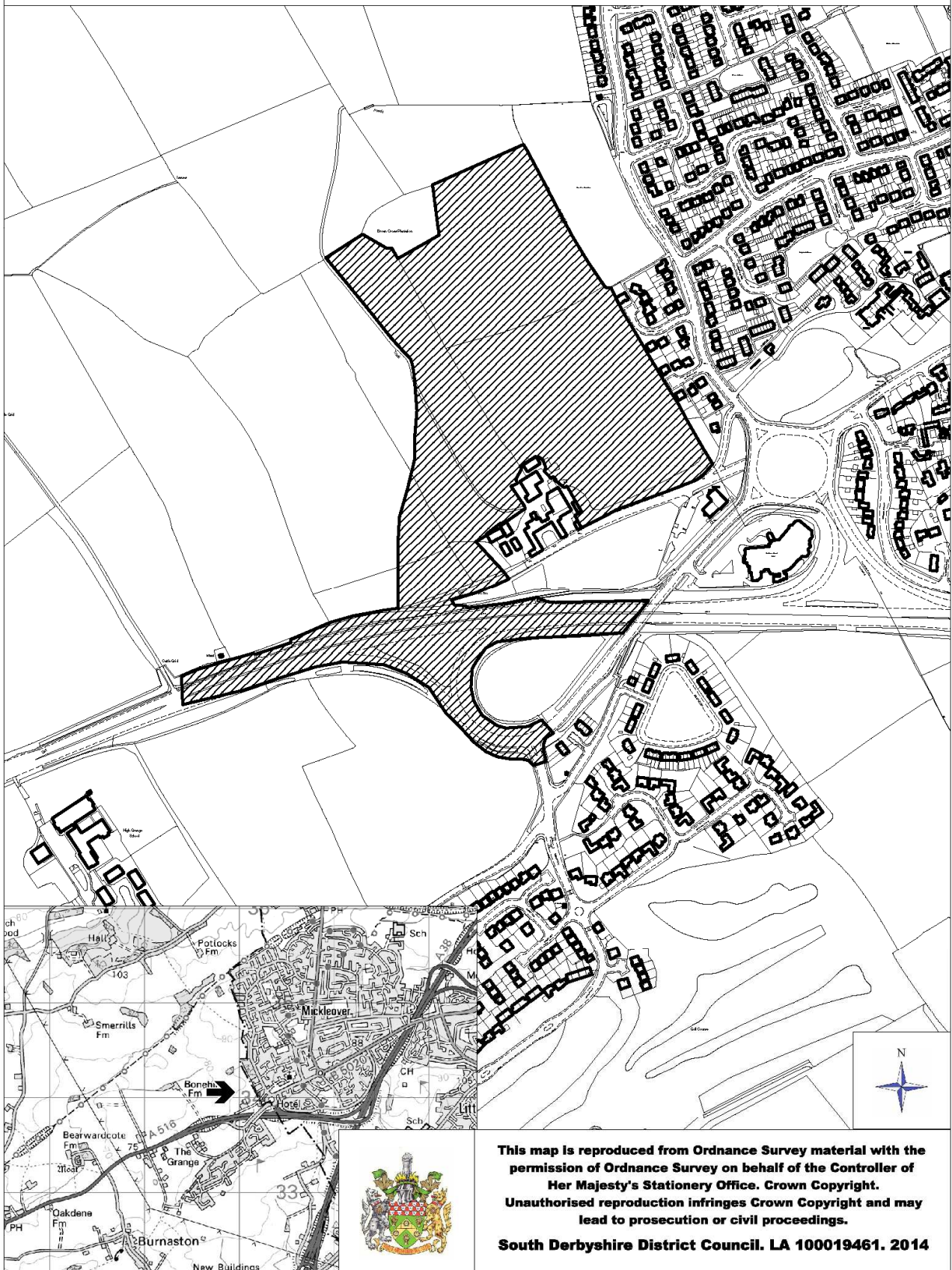
Reason for committee determination

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

Site Description

The site comprises 16.22 hectares of agricultural land situated to the north of the A516 Mickleover By-Pass and the Old Etwall Road, which was stopped up when the by-pass was constructed. The site is immediately adjacent to the administrative boundary with Derby City and is west of properties on Ladybank Road, Howden Close and Paxton Close on the Ladybank estate in Mickleover. The site has mature hedges punctuated by numerous mature trees as well as a dense group of trees along the boundary with Old Etwall Road; a group of trees beyond the northern boundary of the site, known as Brown Cross Plantation; and to the north-east of the site within Derby City there is a group of mature trees west off Ladybank Road, known as Four Acre Plantation that are protected by Derby City Tree Preservation Order (TPO) no. 530.

9/2016/0564 - New House Farm, Etwall Road, Mickleover, Derby DE3 0DN



Proposal

Following the grant of outline permission (9/2014/1136), commonly referred to as the Roundabout Scheme; the reserved matters of layout, scale, appearance and landscaping require approval. The maximum number of dwellings approved at appeal was 300 dwellings. This reserved matters application seeks permission for 288 dwellings in a similar layout to that indicatively shown at the outline stage, with the access via a new roundabout on the A516 dual carriageway. The layout includes a central area of public open space (POS), POS towards the frontage with the A516 and approved roundabout, as well as along the eastern boundary with the properties within the City adjacent to Paxton Close and Howden Close including a locally equipped area for play (LEAP). Sustainable Drainage Systems (SuDS) would exist within the POS areas. Dwellings would be provided as a mix of 2 and 2.5 storey detached, semi-detached and terraced houses (as well as two bungalows) with parking provided, in the majority, as private driveways, garages and/or bays to the front, although a small number of parking courts are also included. The application also seeks to agree a number of conditions on the outline permission – namely conditions 5 (landscaping, etc.), 11 (boundaries), 14 (road surfaces), 15 (floor levels), 31 (parking provision) and 35 (open space).

Planning History

- 9/2014/0249 (Traffic Light Scheme) Outline application for residential development of up to 300 dwellings with all matters reserved except for access – Refused October 2014 but allowed at appeal August 2015.
- 9/2014/1136 (Roundabout Scheme) Outline application for residential development of up to 300 dwellings with all matters reserved except for access (resubmission of application ref: 9/2014/0249 but including the provision of a roundabout on the A516) – Resolution to refuse application in March 2014 as an appeal for non-determination had been lodged, but allowed at appeal August 2015.

Responses to Consultations

The County Highway Authority confirms that the site layout is satisfactory, subject to further details of turning facilities adjacent to Plots 224 & 132 to accord with submitted swept path drawings. Further conditions relating to pedestrian intervisibility, gates, driveway gradients and parking provision are also recommended.

Derbyshire Wildlife Trust (DWT) commented on the original submission stating that the layout submitted with the reserved matters broadly accords with the Illustrative Masterplan submitted with the outline application. Their only additional comments relate to the landscaping element of the scheme, stating that whilst satisfied that the proposed native hedgerows and buffer planting uses an appropriate mix of species, the locations of the proposed new native hedgerow planting are unclear from the submitted plans and, as such, were unable to confirm there is no net loss of priority hedgerow habitat. They also seek confirmation with regard to the loss of mature

trees and that the proportion of the open space that will be seeded to create wildflower grassland is increased in place of amenity grassland.

The Strategic Housing Manager has considered the layout, and whilst there is a cluster of affordable housing slightly above the maximum number normally accepted; it is recognised this can be acceptable to make the scheme 'work' in planning terms.

Highways England raises no objection to the proposal.

The Police Crime Prevention Design Advisor commented on the original scheme stating that whilst the majority is acceptable, there is some remote courtyard parking which is unacceptable; a footpath link on the western boundary should be omitted or relocated; a number of plots have no rear access; some allocated parking spaces are well out of the view and control of residents; and there are a number of shared rear garden access routes which are unsecured at their point of origin, and would best be secured with a communal gate close to an end plot front elevation.

Responses to Publicity

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

- a) the existing roads cannot cope;
- b) existing sewers for foul and rain water cannot cope;
- c) existing doctors surgeries are overstretched;
- d) existing schools are overstretched; and
- e) inadequate shopping facilities in Micklegate.

Burnaston Parish Council objected to the original plans, raising the following concerns/points:

- a) there should be no illumination at the site office;
- b) garages should be retained for that use;
- c) pavements should be 2m wide;
- d) crossing points should be provided across the site;
- e) the pumping station needs to be secure;
- f) parking for cars away from plots will mean they are not used as people will park close to their houses;
- g) properties should not be allowed to create access points on to public open spaces;
- h) the layout does not provide an integrated approach to housetypes but creates distinct segregation;
- i) all trees should be protected by a TPO;
- j) all hedges and trees should be native species;
- k) the noise levels are high and bunding should be provided to mitigate the impacts of noise on Micklegate country park residents;
- l) a site management plan is required for hours, security and cleanliness; and
- m) bungalows ought to be provided in place of starter homes.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Land West of Mickleover), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows)

National Guidance

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

Local Guidance

- The Provision of Outdoor Playing Space in New Developments (as updated by the Section 106 Guidance for Developers)
- Housing Design and Layout SPG

Planning Considerations

The principle of the development is established through the extant outline permission and conditions on that permission control detailed matters such as, amongst other things; access provision, archaeological investigation, surface and foul water drainage, tree protection and habitat creation/management. The existing Section 106 agreement also established the parameters for affordable housing and provision of contributions towards off-site education, recreation facilities, etc.

In view of the above the main issues in regards to the consideration of this application are considered to be:

- Highway safety,
- Design,
- Affordable housing,
- Impact on trees and ecology; and
- Impact on neighbours;

Highway safety

The means of access was granted at outline stage such that only the internal highway arrangements are for consideration. The internal layout has been designed to not only allow the access to this site but for it to also serve the next phase(s) of development which forms part of the wider site allocation in the adopted Local Plan Part 1. The road layout includes design features to define the street hierarchy and emphasise important junctions for legibility through the site. Pedestrian links through the site, which would also connect with the paths and public open spaces within the next phase(s) of development, are also shown. Parking generally takes the form of on-plot parking solutions, although a small number of parking courts are also proposed. Condition 31 on the outline permission already addresses the requested condition in respect of parking provision. This requires two off-street parking spaces to be provided per dwelling and whilst two smaller, two bedroom plots (no. 157 and 158) have one designated space each; visitor spaces are provided in that area. The safety of the access and appropriateness of the internal road layout for the development is considered to be acceptable to the County Highway Authority, subject to the recommended conditions – in particular the condition relating to turning head details. As such the proposals are considered to be acceptable in highway safety terms.

Design

Significant negotiations have taken place to ensure an appropriate design and layout is achieved. These included alterations to the road layout and hierarchy, addressing level changes within the site, feature properties set on prominent corners in the site to provide a double frontage, improving the natural surveillance of the street and appropriately addressing public open space as well as ensuring connectivity within the site. The scale of the dwellings reflect those contained within the outline Design and Access Statement, with the provision of 2 and 2.5 storey dwellings supported by the Inspector in considering the appeal. The layout and floor levels respect the contours of the site although the engineering constraints that result from the fixed levels associated with the roundabouts within the development itself. The changes in levels across the site will help to create interest. The appearance and layout of the proposed development is, on balance, acceptable and appropriate for the site. The house types create a strong character for the overall development and include the selective use of strong gable features and symmetry across the fenestration details. The mix of house styles and scales creates an evolving built environment that sensitively reflects the better parts of the local vernacular whilst providing its own identity in the evolution of the City's built environment. It is considered that the layout and house types would result in an acceptable built form that would create a good sense of place for future occupiers and which sits harmoniously with the existing built form.

In terms of designing out crime, the main concerns about remote parking are a direct result of striking a balance between fronting the roundabout and side road, and not being able to provide access straight on to the roundabout. On plot parking spaces have been amended so that wherever possible they are overlooked. The footpath link running west to access the wider site benefits from overlooking from plots either side, although the garages do enclose that link further along. However care on the next phase can ensure that the link is appropriately surveilled.

Affordable housing

The Section 106 Agreement accompanying the outline permission requires 30% of the dwellings to be affordable. The proposed layout shows clusters of affordable housing around the site and whilst the Housing Strategy Manager had concerns in regards to concentration of units towards the north-east of the site; it is accepted the layout and houstypes which would form the affordable housing take into account the planning constraints and the need to provide an appropriate layout. As such this aspect of the proposal is considered to be acceptable.

Impact on trees and ecology

The site has numerous trees on site and on the frontage to Old Etwall Road as well as off site to the north and north-east; and negotiations have taken place to ensure that the important trees within and on the periphery of the site are retained where possible. The proportion of the open space that will be seeded to create wildflower grassland has increased in place of amenity grassland in order to address DWT's concerns. In view of the above, the impact of the development on trees and ecology is considered to be acceptable.

Impact on neighbours

The application site runs adjacent to an existing housing estate with Howden Close and Paxton Close situated to the east, both within the City boundary. The Masterplan endorsed at appeal by the Inspector provided open space adjacent to those properties, and this vision has been carried forward within this layout. This approach is considered to be a reasonable balance between protecting the neighbours and delivering the development. Backing and siding onto existing properties is also achieved without compromising separation distances set out in the SPG. Whilst some existing residents within the City presently benefit from an open and impeded view out onto the open countryside, the principle of developing the site has already been ruled acceptable and there is no concern as to separation to existing residences.

Conclusion

In the context of permission having already been granted in outline, considerable efforts have been made by both the applicant and officers to achieve a design which harmonises with its environs and wider vernacular. The proposal represents an appropriate form of development that appropriately balances the competing and conflicting issues such layout constraints, design cues, impact on trees and effect on neighbours; and would provide a sound basis on which this development should proceed.

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

Recommendation

GRANT approval of reserved matters subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the Drawing Schedule received on 14 October 2016 and as supplemented by landscape drawing numbers GL0603 01D and GL0603 02C, with the exception of materials layout HNHFM/106/Rev D, enclosures layout HNHFM/106E/Rev D, and the hard surface materials detailed on drawing numbers HNFMM/101 Rev L and HNFMM/102 Rev L; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

2. Notwithstanding approved drawings/plans and submitted details, gutters and downpipes shall have a black finish.

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and fronts a highway or public open space; there shall be no alteration to any gate, wall, fence or other means of enclosure adjacent to any highway or public open space; and there shall be no alterations to any roof of any dwellinghouse which forms the principal elevation of the dwellinghouse and fronts a highway or public open space.

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

4. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features have been submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. eaves/verges/string/dentil course/window reveal details;
- c. porch canopies;
- d. utility cupboard colours (both wall and ground mounted); and
- e. highway kerb styles to all road typographies.

For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall be constructed and thereafter maintained in accordance with the approved details.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

5. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of any of the driveways or hard surfaced areas within the root protection areas adjacent to plots 4, 24, 25, 26, or in any areas of open space shall commence until details of the method of

constructing the driveways or hard surfaced areas shall commence until revised or additional details of the construction of these including the final finish have been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the details approved by this condition.

Reason: To protect the health of trees and in the interests of the visual amenity of the area.

6. Notwithstanding the approved drawings/plans and submitted details the front feature walls to plots as shown on the approved layout plan shall be constructed in such a manner so as to ensure that there are no steps or breaks along their upper edges along the coping.

Reason: In the interests of visual amenity.

7. Notwithstanding the approved drawings/plans and submitted details, prior to the first occupation of a dwelling details of on plot landscaping along with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented in accordance with the details approved.

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

8. Notwithstanding the submitted drawings/plans, no development involving the construction of a dwelling or boundary treatment shall commence until revised drawings detailing the height, types and materials of boundary fences and walls and the positions of associated pedestrian gates have been submitted to and approved in writing by the Local Planning Authority. Such drawings shall be based on the positions of boundary fences and walls shown on layout plans hereby approved and be supplemented with elevational plans to show the typical heights and materials of such fences and walls. In addition the front boundary treatments for plots 41 to 47 and 50 to 54 shall include the provision of hedgerows. The fences and walls and the positions of associated pedestrian gates shall be completed in accordance with the approved details before the respective dwelling(s)/building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority; and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall erected forward of such walls or fences..

Reason: In the interests of overall design, recognising that the details submitted to date are not acceptable and in order to maintain the character of green and public spaces as secured under the plans hereby approved.

9. Notwithstanding the submitted layout drawing No. HNFM/101 Rev L, no development shall commerce until further details have been submitted showing turning facilities adjacent to Plots 224 & 132 to accord with the submitted swept path drawing No 16/132/ATR/001.

Reason: To ensure adequate turning and manoeuvring space for emergency and service vehicles. It is necessary to ensure that these facilities can be

satisfactorily provided before any other development occurs in order to secure the safety and functionality of the layout.

10. Unless alternative details are first submitted to and approved in writing by the Local Planning Authority, vehicular accesses to dwellings shall not be taken into use until they have been provided with 2m x 2m x 45° pedestrian intervisibility splays on either side at the back of the footway, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interest of highway safety,

11. There shall be no gates or barriers within 5m of the nearest highway boundary and gates shall open inwards only.

Reason: In the interest of highway safety.

12. Unless alternative details are first submitted to and approved in writing by the Local Planning Authority, the proposed accesses shall be no steeper than 1 in 15 for the first 10m from the nearside highway boundary and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided any such facilities shall be retained in perpetuity free from any impediment to their designated use.

Reason: In the interest of highway safety.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. 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.
- c. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- d. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

- e. The Highway Authority advises that highway surface water should be disposed of via a positive, gravity fed system (i.e. not pumped) discharging to an approved point of outfall (e.g. existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway surface water is generally not sanctioned.
- f. Where development has been approved subject to the preparation and implementation of a Travel Plan, the applicant is obliged to submit the appropriate documentation to the Local Planning Authority well in advance of the development being taken into use. Advice regarding the content of the Travel Plan may be obtained from Derbyshire County Council's Transport Section (01629 533190).

Item **1.4**

Reg. No. **9/2016/0359/BSM**

Applicant:
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Tamworth
B77 4DS

Agent:
Miss Jennifer Towers
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Tamworth
Staffordshire
B77 4DS

Proposal: **THE VARIATION OF CONDITION 14 OF PLANNING**
 PERMISSION REF: 9/2013/1040 (RELATING TO
 OUTLINE APPLICATION (ALL MATTERS RESERVED)
 FOR DEVELOPMENT OF UP TO 100 DWELLINGS,
 PUBLIC OPEN SPACE, DRAINAGE AND ASSOCIATED
 WORKS) TO REDUCE EXTENT OF HIGHWAY WORKS
 ON LAND AT SK2731 3037 WILLINGTON ROAD
 ETWALL DERBY

Ward: **Etwall**

Valid Date: **15/04/2016**

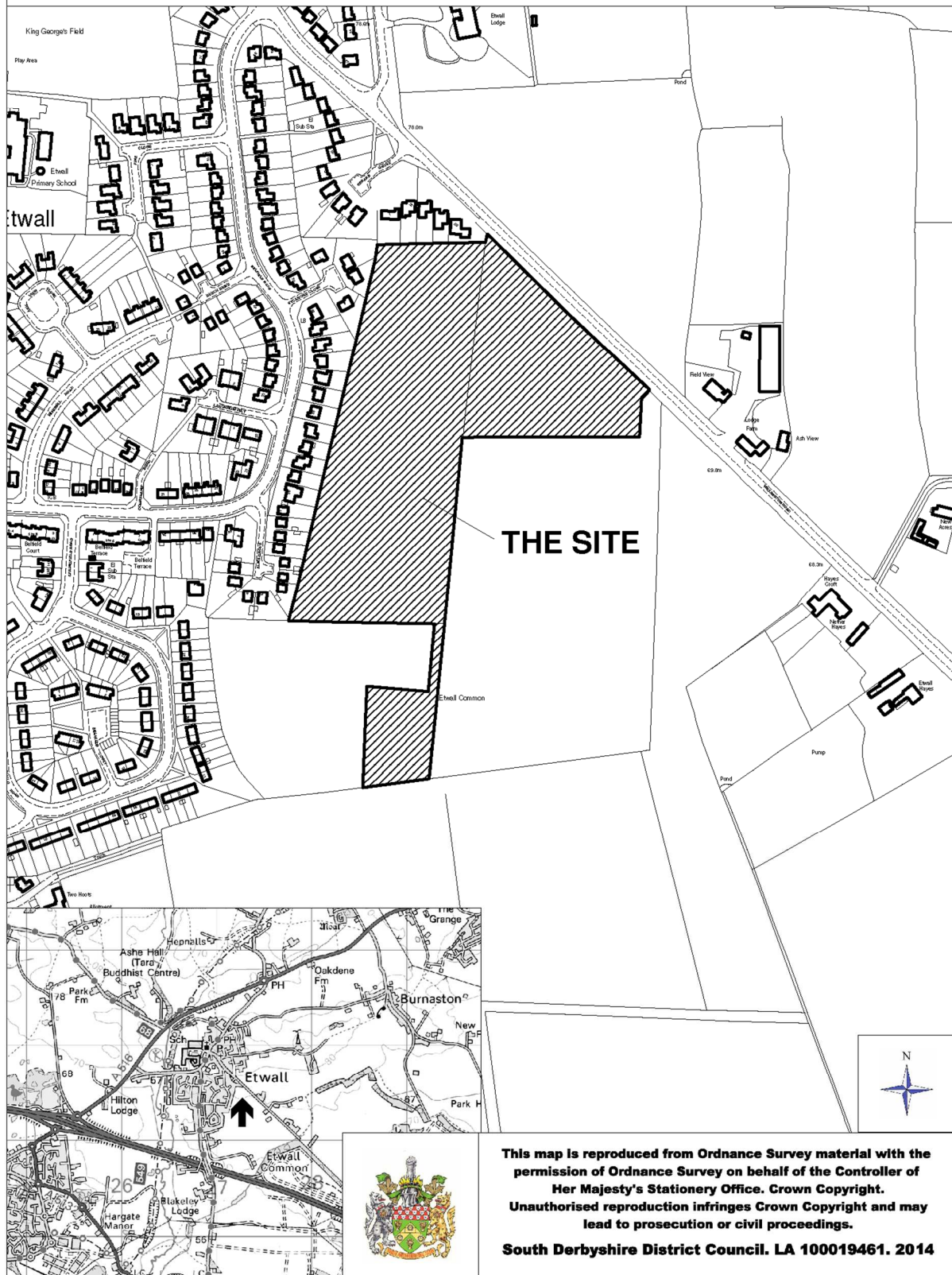
Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager.

Site Description

The application site is part of the wider allocated housing site currently under construction, situated to the south of Willington Road and a number of properties on that frontage, east of properties on Belfield Close, Sycamore Close and Elms Grove. The site has mature hedges on the Willington Road frontage, punctuated by numerous mature trees with hedges on the eastern boundary and southern boundaries and a hedgerow crossing the middle of the site in a north-south direction. The land levels across the site drop significant from Willington Road to the southern boundary with a fall of up to approximately 9m though they are consistent across the site in an east-west direction. Etwall Lodge, a Grade II listed building, is located to the north of the site, across Willington Road and an Ash tree protected by TPO 285 is located adjacent to the location of the proposed water attenuation pond.

9/2016/0359 - Land at SK2731 3037 Willington Road, Etwall, Derby
(DE65 6NR)



Proposal

The application was amended during consideration and the original proposal also included a request to extend working hours (condition 31); however that was removed from the proposal. As such this application now only seeks permission to vary condition 14 of the outline planning permission, reference 9/2013/1040, so as not to require the applicant to have to provide a footway on the southern side of Willington Road for the whole length of the site frontage.

Planning History

- | | |
|-------------|---|
| 9/2013/1040 | Outline application (all matters reserved) for development of up to 100 dwellings, public open space, drainage and associated works – Approved April 2015. |
| 9/2015/0354 | Outline application with all matters reserved for the development of up to 99 dwellings, public open space, drainage and highways infrastructure – Approved August 2016. |
| 9/2015/0555 | Approval of reserved matters (except landscaping) on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Approved April 2016. |
| 9/2016/0392 | Approval of landscaping reserved matter on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Decision pending. |
| 9/2016/0642 | Approval of access, appearance, landscaping, layout and scale reserved matters relative to substitution of housetypes to plots 10, 11, 19, 20, 31, 33, 80, 85, 86 and 95 and repositioning of plots 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 78, 79 and 81 on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Decision pending. |

Responses to Consultations

The County Highway Authority has no objection.

Responses to Publicity

Two objections were received on the original proposal before the extension to working hours was omitted from the proposals, raising the following concerns/points:

- a) No other authority would allow such working hours.
- b) The approved working hours are far more appropriate.
- c) We have no comments on the footway changes.
- d) The approved hours are adequate for working on site.
- e) We already have noise and dust.
- f) I do not wish to have my sleep patterns altered.
- g) Hours would be extended to 11.5 per day.

- h) The site is similar to the one in Repton where works at that site can start at 08:00 not 07:30.
- i) Etwall is a quiet, peaceful village and the noise will be intrusive and disturb residents.
- j) It will affect their Human Rights.

Etwall Parish Council objected to the proposal to extend working hours as the site abuts existing residential properties, many elderly. Noise prior to 08:00 is unacceptable and no other village has to put up with that early start. Resident's amenity should be maintained.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H10 (Land south of Willington Road, Etwall) and INF2 (Sustainable Transport).

National Guidance

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

Planning Considerations

The application was amended so that the proposed variation to the working hours condition number 31 was omitted from the application. As such the concerns expressed by neighbours are no longer applicable. The proposed variation to condition 14 is a legacy from when it was anticipated that there would be a second access further along Willington Road and the requirement was imposed in order to provide a safe access route for pedestrians. Since the reserved matters ultimately used a single access closer to the existing properties on Willington Road, the need to provide a footway further along for the whole site frontage is superfluous. It is noted that the County Highway Authority raises no objection and as such the proposal is considered to be acceptable.

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

Recommendation

GRANT approval to vary condition 14 and issue a new outline planning permission subject to the following conditions:

1. All landscaping works shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase of the development unless an alternative timescale has been agreed in writing.

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

2. Notwithstanding the submitted details, within 28 days from the date of this permission a revised Landscape Management Plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall be implemented as approved.

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

3. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

4. The development shall be implemented incorporating the tree protection measures detailed in the Tree Protection Plan reference MI106-SL-TPP-01 Revision D and those measures shall remain in place during site clearance works. The areas surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow;
- (v) No drain runs or other trenches shall be dug or otherwise created without the prior written consent of the Local Planning Authority.

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

5. Notwithstanding the submitted details, within 28 days from the date of this permission, details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and any courtyards shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials which shall be retained throughout the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally.

6. The development shall be implemented in accordance with the materials specified on drawing number MI106-MAT-MOE-001Revision N. The buildings shall be maintained in the approved materials throughout the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally.

7. The development shall be implemented in accordance with the boundary details as shown on drawing numbers MI098-MAT-MOE-001 Revision N and MI106-PD-300 (Boundary details) Revision A. The approved scheme shall be completed before the respective building(s) or land use is/are first occupied or brought into use and shall thereafter be retained in the approved materials and positions throughout the lifetime of the development, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area, to prevent crime and disorder and to protect the amenity of residents.

8. The temporary access for construction purposes constructed to Willington Road, as shown on the Construction Management Plan reference MI106-CM-001 (Construction Management Plan) Revision F shall be maintained with visibility splays as shown with the area forward of which shall be cleared and maintained throughout the construction period clear of any obstruction exceeding 600mm in height relative to road level.

Reason: In the interests of highway safety.

9. With the exception of working hours, the development shall be implemented in accordance with the Construction Management Plan reference MI106-CM-001 (Construction Management Plan) Revision F. The Construction Management Plan shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and amenity of residents.

10. Prior to the first occupation of any dwelling the off-site highway works shown generally on WYG drawing reference A091475-101 shall be laid out, constructed, drained and lit in accordance with Derbyshire County Council's specification for adopted highways.

Reason: In the interests of highway safety.

11. Prior to the first occupation of any dwelling the new estate street junction shall be formed to Willington Road. The access shall have a minimum width of 5.5m, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 59m. The area forward of the sightlines shall be level, form part of the new street, constructed as footway, and not part of any plot or other sub-division of the site. The access shall be laid out, constructed to base level, drained and lit in accordance with Derbyshire County Council's specification for adopted roads.

Reason: In the interests of highway safety.

12. The gradient of any of the accesses shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

Reason: In the interests of highway safety.

13. Prior to the first occupation of any dwelling the proposed new estate street between each respective plot and the existing public highway has been laid out in accordance with the approved application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in

accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

14. Notwithstanding the submitted Transport Assessment, and unless otherwise agreed in writing by the Local Planning Authority, off-street car parking spaces shall be provided within the site for the parking of two vehicles per dwelling. The two off-street parking spaces shall be provided before the respective dwelling is first occupied and shall be maintained thereafter free of any impediment to their designated use.

Reason: In the interests of highway safety.

15. Any garage relied upon as an enclosed parking space in connection with condition 14 above, shall measure at least 6.0m x 3.0m.

Reason: In the interests of highway safety.

16. Secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be provided in accordance with the Cycle Storage Plan reference MI106-CS-015 (Cycle Storage) Revision C. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained and available for use at all times.

Reason: In the interests of sustainable development.

17. Bin stores shall be provided within private land at the entrance to shared private accesses to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety.

18. Notwithstanding the submitted details within 28 days of the date of this permission, details of a Travel Plan, comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of highway safety.

19. a) The development shall be implemented in accordance with the recommendations contained in the Combined Phase I Desk Study and Phase II Exploratory Investigation report produced by GeoDyne, Project No: D34154 dated 27th February 2015.

b) Prior to occupation of the development an independent verification report shall be submitted to the Local Planning Authority which meets the requirements given in Box 2 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

c) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in

Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

d) If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals, and shall be submitted as soon as practicably possible to and approved in writing by the Local Planning Authority. The approved remediation scheme shall be implemented.

Reason: In the interests of protecting human health.

20. Notwithstanding the submitted details within 28 days of the date of this permission details of measures to be provided for enhancing features for wildlife as recommended in pages 14 to 20 (incl.) of the Ecological Appraisal dated December 2013, as well as for the provision of bat roosts opportunities and bird boxes to be located within the site or within the structure of any of the buildings hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented concurrent with the development and the measures shall thereafter be retained in those positions throughout the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that measures to encourage wildlife habitat creation within the site are provided.

21. The development shall be implemented in accordance with the levels, contours as well as surface water and foul sewerage drainage details specified on drawing numbers MI106-EN119 (External levels and Drainage) Revision B and MI106-EN120 (External levels and Drainage) Revision C.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; and to ensure future maintenance of the drainage system.

22. Prior to the first occupation of any dwelling until the requirements of the amended Evaluation Report produced by Wessex Archaeology received by the Local Planning Authority on 12th June 2015 have been implemented in full.

Reason: In the interests of recording archaeology relating to the site.

23. During the period of construction no construction work shall take place outside the following times: 0800 - 1900 hours Monday to Friday and 0800 - 1330 hours on Saturdays. There shall be no construction work at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

24. Prior to the first occupation of any dwelling a timescale for the provision within the public open space of the play equipment along with the associated means of enclosure, hard surfaces, benches and similar facilities detailed on drawing number MI106-LS-005 (POS Landscaping- POS & Play Areas) Revision F shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented in the agreed timescale and shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that measures to encourage wildlife habitat creation within the site are provided.

25. Within 12 months of the commencement of the operation of the approved surface water drainage scheme, it shall be certified as completed in accordance with the approved drawings/documents by a Chartered Surveyor or Chartered Engineer.

Reason: In the interests of flood protection.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions/seeking to resolve planning objections and issues/suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.
- b. This permission is subject to planning obligations contained within the legal agreement signed under section 106 of the 1990 Act, and carried forward to subsequent applications under s73 of the 1990 Act, attached to planning permission 9/2013/1040.

Item **1.5**

Reg. No. **9/2016/0392/RSD**

Applicant:
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Armington
Tamworth
B77 4DS

Agent:
Miss Jennifer Towers
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Armington
Tamworth
Staffordshire
B77 4DS

Proposal: **APPROVAL OF LANDSCAPING RESERVED MATTER
ON LAND SUBJECT TO OUTLINE PERMISSION
9/2013/1040 FOR 100 DWELLINGS, PUBLIC OPEN
SPACE, DRAINAGE AND ASSOCIATED WORKS ON
LAND AT SK2731 3037 WILLINGTON ROAD ETWALL
DERBY**

Ward: **Etwall**

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

Reason for committee determination

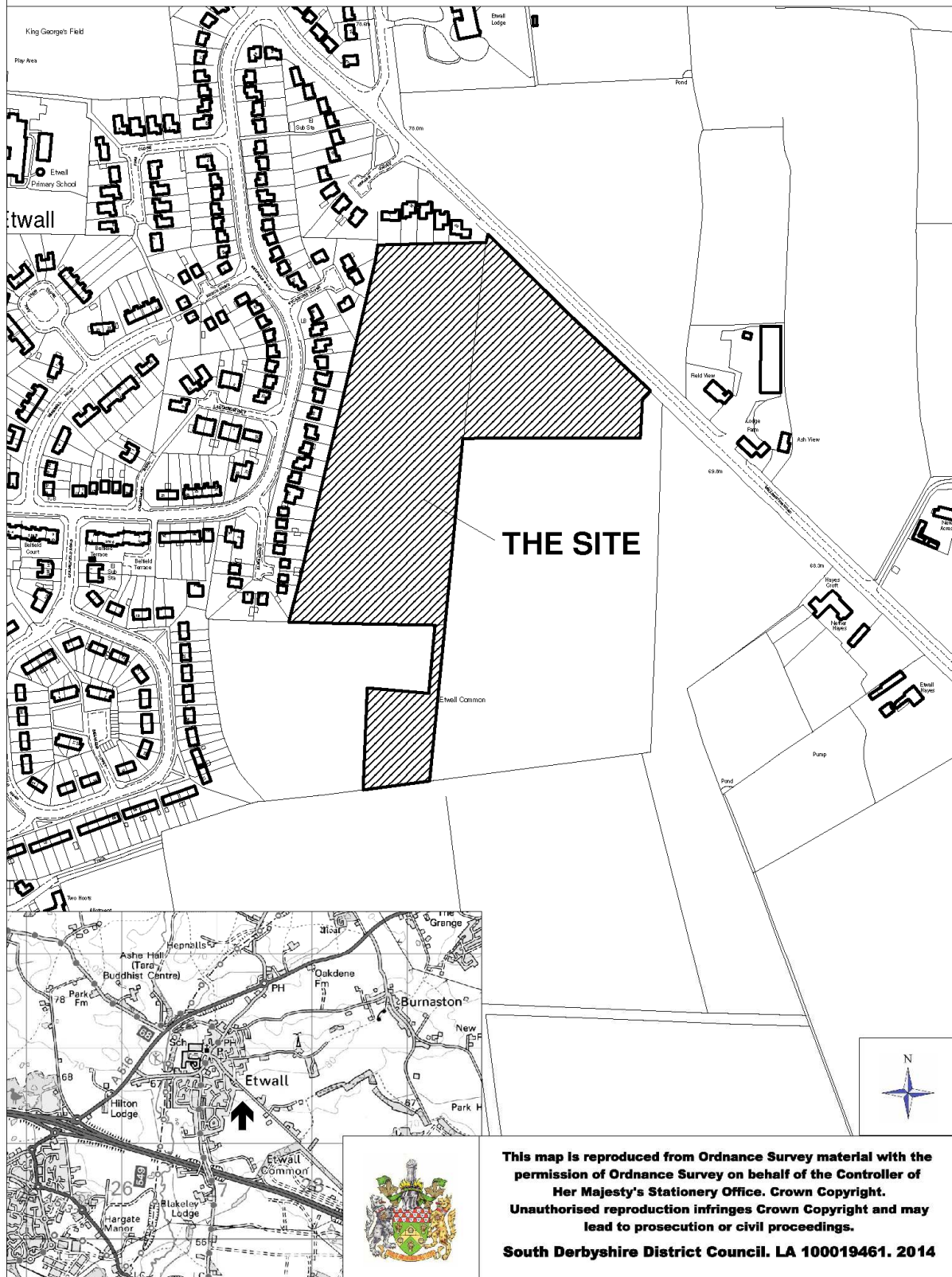
The item is presented to Committee due to it being a major application subject to more than two objections.

Site Description

The application site is an allocated housing site currently under construction, situated to the south of Willington Road and a number of properties on that frontage, east of properties on Belfield Close, Sycamore Close and Elms Grove. The site has mature hedges on the Willington Road frontage, punctuated by numerous mature trees with hedges on the eastern boundary and southern boundaries and a hedgerow crossing the middle of the site in a north-south direction. The land levels across the site drop significantly from Willington Road to the southern boundary with a fall of up to approximately 9m though they are consistent across the site in an east-west direction. Etwall Lodge, a Grade II listed building, is located to the north of the site, across Willington Road and an Ash tree protected by TPO 285 is located adjacent to the location of the proposed water attenuation pond.

Proposal

9/2016/0392 - Land at SK2731 3037 Willington Road, Etwall, Derby
(DE65 6NR)



Following the grant of outline permission, reserved matters of layout, scale and appearance were approved by Planning Committee in April this year (application reference 9/2015/0555) but the reserved matter of landscaping was not submitted for approval at that time.

The proposed landscaping details have been amended following negotiations with the applicant. In terms of landscaping proposals, the details show the retention of the majority of the frontage hedge to Willington Road and the trees supplemented by additional planting; the northern area of Public Open Space (POS) south-east of 62 Willington Road adjacent to the access road provided with new tree planting to replace the existing hedgerow and tree in the hedgerow which would be removed; a mixture of grass, trees and hedgerows to frontage plot boundaries and a mixture of trees of various species underplanted with a general purpose meadow mix within the northern and western buffer planting areas.

Planning History

- | | |
|-------------|---|
| 9/2013/1040 | Outline application (all matters reserved) for development of up to 100 dwellings, public open space, drainage and associated works – Approved April 2015. |
| 9/2015/0354 | Outline application with all matters reserved for the development of up to 99 dwellings, public open space, drainage and highways infrastructure – Approved August 2016. |
| 9/2015/0555 | Approval of reserved matters (except landscaping) on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Approved April 2016. |
| 9/2016/0359 | The variation of condition 14 of planning permission ref: 9/2013/1040 (relating to outline application (all matters reserved) for development of up to 100 dwellings, public open space, drainage and associated works) to reduce extent of highway works – Decision pending. |
| 9/2016/0642 | Approval of access, appearance, landscaping, layout and scale reserved matters relative to substitution of housetypes to plots 10, 11, 19, 20, 31, 33, 80, 85, 86 and 95 and repositioning of plots 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 78, 79 and 81 on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Decision pending. |

Responses to Consultations

The Derbyshire Wildlife Trust (DWT) commenting on the original submission requested native species and wildflower plants.

Responses to Publicity

16 objections were received on the original plans, raising the following concerns/points:

- f) Consultation should not start until plans are available and the plans are confusing and some unable to be opened.
- g) 6 trees on the open space will overshadow my garden.
- h) A 6ft fence is needed on the boundary, not post and rail fencing.
- i) They should not start before this is approved.
- j) The green buffer has declined in width and there are no trees.
- k) Who will maintain the buffer and fence after 12 months?
- l) I have had problems with brambles from the field and I hope it will now be maintained properly.
- m) The buffer needs to be 5m.
- n) There is no boundary between plots 10 & 11.
- o) There is no access to the buffer.
- p) The height and spread of the trees are excessive and will affect our property so root barriers are needed.
- q) They will affect sewers and leaves block gutters.
- r) Planting will affect the productivity of our garden and greenhouse.
- s) They will cause loss of light and shading to our garden.
- t) The northern boundary is in dispute due to the hedge and ditch rule.
- u) The buffer should not be conveyed to plot owners.
- v) We require access to maintain the hedge and ditch.
- w) It should remain a wildlife strip.
- x) The access for the sewer means there is a break in the planting in the buffer.
- y) The developer should make arrangements to compensate householders affected by any sewer improvements needed in the future, now.
- z) The Councils should look after the buffer.
- aa) Root barriers are needed close to hard surfaces in neighbouring properties.
- bb) My property has had subsidence so planting should be species slow growing and non-invasive.

2 further objections received on the amended plans, raising the following concerns/points:

- a) There is no reference to the buffer on the northern boundary.
- b) We do not know where the "Ridley Gardens" referred to in the plans is – this is a cut and paste error showing the off-hand attitude of the developer.
- c) The Landscape Management Plan states both in perpetuity but elsewhere ten years, reviewed every five.
- d) There is no mention of change of ownership in future – this needs legal protection.
- e) Who looks after it after Bloors withdraw?
- f) There is no mention of security to the buffer.
- g) No mention is made of access for residents to maintain their hedges.
- h) We own half our hedge.
- i) The management company could grub out the hedges.
- j) The trees proposed on the amended plans would cause shading of a greenhouse and vegetable garden and the number proposed has increased, exacerbating the problem.
- k) The applicant should produce a clear and unambiguous plan to include legal protection, maintenance, security and access arrangements.

- l) The plans are not to scale.
- m) Landscape Management Plan should be reviewed annually and the Parish Council included.
- n) The need for planning permission for public spaces must be included as they may seek to convey the buffer to the new houses.
- o) We now have more trees rather than less.
- p) The trees will cast a rain shadow and leaves block greenhouse gutters with leaves.
- q) We would prefer not to have trees and would prefer our own hedge as the sole screen, as existing.

Etwall Parish Council objected to the original plans, raising the following concerns/points:

- n) Planting in the buffer should not be allowed if it will cause loss of light or problems of shade to adjacent houses and gardens.
- o) A post and rail fence is inadequate between the new houses and the buffer – it should be 2m.
- p) Details of who will manage the buffer, how it will be protected and managed.
- q) There is no indication of access arrangements for neighbours to trim back on their boundaries.
- r) The parish Council is willing to act as arbiter between the developer and residents.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows)

National Guidance

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

Planning Considerations

As the principle of the development is established under the extant outline permission and the majority of the details of the scheme (layout, scale and appearance) were approved through the first reserved matters application; the only matter for consideration as part of this proposal is the suitability of the proposed landscaping details for the site.

Significant negotiations have taken place between officers and the applicant to ensure an appropriate landscape strategy is achieved. These included alterations to the planting schedule for the buffer to the north and west of the site, areas of POS as well as the provision of frontage planting to individual plots. However it is still considered, notwithstanding those submitted details, that the development would benefit from further frontages hedgerows being provided around the site on the front and side boundaries to the properties in the interests of creating a better sense of place and coherent development. The site benefits from numerous trees on the frontage to Willington Road and the landscaping scheme ensures that the most important trees within and on the periphery of the site are retained where possible. The amount of meadow grassland and other planting have increased in order to raise the quality of the development and have addressed DWT's concerns in respect of the landscaping details. In view of the above the impact of the development on trees and ecology is considered to be acceptable, subject to the receipt of amended plans to show further hedgerows being provided around the site on the front and side boundaries to the properties.

Whilst this application relates to landscaping matters only, clearly there is potential for inappropriate species to lead to problems for occupiers of existing neighbouring properties. Objections have been received in this respect and the and the subsequent likely impacts on neighbours being able to enjoy their properties. As a result of negotiations the applicant has amended the proposals in order to ensure an appropriate planting schedule has been developed and to address the concerns of DWT, and the revised landscaping details were produced in conjunction with the Council's Open Space & Facilities Development Manager. The landscaping buffer now comprises a mixture of fruit trees planted as heavy standards and consisting of European Pear, European Crab Apple, 'Laxton's Superb' and 'Discovery' varieties of apple. In terms of the open space south of 62 Willington Road, adjacent to the access that space would be opened up by removing the existing hedge and tree; planting of Evergreen Oak, Vilmorin's Rowan, Wild Cherry and Silver Birch trees is proposed. Notwithstanding the concerns raised by neighbours, the revised landscaping details are considered to be appropriate in terms of species for their locations and whilst they will clearly grow and mature over time in terms of their heights and spread; these species in the proposed locations are considered to be appropriate.

In the context of permission having already been granted in outline along with all other reserved matters with the exception of landscaping, considerable efforts have been made by both the applicant and officers to achieve a landscaping scheme which harmonises with the resulting built form, balancing the creation of appropriate streetscenes, open spaces as well as a suitable buffer adjacent to neighbours with wildlife and ecology and the proposals are, subject to the receipt of amended plans to show further frontages hedgerows being provided around the site on the front and

side boundaries to the properties, considered to provide a sound basis on which the landscaping of the development should proceed.

Objections have been received in respect of the Landscape Management Plan by objectors. However, the Landscape Management Plan is the subject of condition 7 on the outline permission (9/2013/1040) and is submitted pursuant to that condition. Comments have also been received from DWT in that regard and as such the Landscape Management Plan in its current form is not considered to be acceptable. This will be further refined until it is found to be acceptable relative to that condition, but this does not have bearing on the progress of this application. It should however be noted that even in its latest draft there is a commitment from the applicant for the management company to look after the public open space, including the buffer zone and the new rear boundary fences on the rear boundary of the new dwellings which would back on to it. It should also be remembered that condition 9 on the previous reserved matters approval (9/2015/0555) requires the landscape buffer to specifically be excluded from any of the gardens of any of the dwellings contained within the development.

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

Recommendation

Subject to the receipt of amended plans to show additional frontage hedgerow planting to plots and the imposition of a suitably worded condition to refer to those amended plans, prepared under delegated authority given to the Planning Services Manager; **GRANT** approval of the reserved matter subject to the following informatives:

- a. The applicant is advised that notwithstanding the submitted details, the submitted Landscape Management Plan is considered to be unacceptable in its current form and as such is not agreed pursuant to condition 7 of the outline planning permission ref: 9/2013/1040 to which this reserved matters application relates.
- b. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.6**

Reg. No. **9/2016/0642/RSD**

Applicant:
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Armington
Tamworth
B77 4DS

Agent:
Miss Elizabeth Whale
Bloor Homes Ltd
7 Calico Business Park
Sandy Way
Armington
Tamworth
Staffordshire
B77 4DS

Proposal: **APPROVAL OF ACCESS, APPEARANCE, LANDSCAPING, LAYOUT AND SCALE RESERVED MATTERS RELATIVE TO SUBSTITUTION OF HOUSETYPES TO PLOTS 10, 11, 19, 20, 31, 33, 80, 85, 86 AND 95 AND REPOSITIONING OF PLOTS 18, 21-30, 32, 78, 79 AND 81 ON LAND SUBJECT TO OUTLINE PERMISSION 9/2013/1040 FOR 100 DWELLINGS, PUBLIC OPEN SPACE, DRAINAGE AND ASSOCIATED WORKS ON LAND AT SK2731 3037 WILLINGTON ROAD ETWALL DERBY**

Ward: **Etwall**

Valid Date: **20/06/2016**

Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager.

Site Description

The application site is part of the wider allocated housing site currently under construction, situated to the south of Willington Road and a number of properties on that frontage, east of properties on Belfield Close, Sycamore Close and Elms Grove. The site has mature hedges on the Willington Road frontage, punctuated by numerous mature trees with hedges on the eastern boundary and southern boundaries and a hedgerow crossing the middle of the site in a north-south direction. The land levels across the site drop significantly from Willington Road to the southern boundary with a fall of up to approximately 9m though they are consistent across the site in an east-west direction. Etwall Lodge, a Grade II listed building, is located to the north of the site, across Willington Road and an Ash tree protected by TPO 285 is located adjacent to the location of the proposed water attenuation pond.

King George's Field

Play Area

Etwell Primary School

Etwell

Etwell Lodge

Field View

Ash View

Pump

Etwell Common

THE SITE

★ denotes approximate location of amended plot sites

Etwall

Hilton Lodge

Burnaston

Oakdene

PH

Heppells

Ashes Hall (Tara Buddhist Centre)

Park Fm

New F

Park H

Etwall Common

Blakely Lodge

Hargett Manor

26

55

N

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South Derbyshire District Council. LA 100019461. 2014

Proposal

This application is a re-plan of parts of the site which relates to the minor repositioning of houses, amending the housetypes in various locations. Whilst a new reserved matters application pursuant to the outline permission and a revision to the previous reserved matters approval; this proposal now includes the additional matter of landscaping. The landscaping for the remainder of the site that is not subject to this re-plan is covered by a separate application (ref: 9/2016/0392). It should be noted that the proposed landscaping details have been designed to fit in with the wider development.

Planning History

- | | |
|-------------|---|
| 9/2013/1040 | Outline application (all matters reserved) for development of up to 100 dwellings, public open space, drainage and associated works – Approved April 2015. |
| 9/2015/0354 | Outline application with all matters reserved for the development of up to 99 dwellings, public open space, drainage and highways infrastructure – Approved August 2016. |
| 9/2015/0555 | Approval of reserved matters (except landscaping) on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Approved April 2016. |
| 9/2016/0359 | The variation of condition 14 of planning permission ref: 9/2013/1040 (relating to outline application (all matters reserved) for development of up to 100 dwellings, public open space, drainage and associated works) to reduce extent of highway works – Decision pending. |
| 9/2016/0392 | Approval of landscaping reserved matter on land subject to outline permission 9/2013/1040 for 100 dwellings, public open space, drainage and associated works – Decision pending. |

Responses to Consultations

The County Flood Risk Team wishes to make no comments.

The Environment Agency has no objection.

The County Highway Authority has no objection.

Responses to Publicity

Two objections were received on the original plans, raising the following concerns/points:

- r) The housetype now backing on to me is wider with more windows facing my property.

- s) The buffer still shows a post and rail fence but others show a 1.8m close boarded fence.
- t) The sewer has been damaged and will be surface water only with foul diverted elsewhere.
- u) Earlier working hours are not approved.
- v) There is no boundary plan.
- w) Who will maintain the fence?

Etwall Parish Council has no objection to the proposals.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), HSD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE8 (Trees, Woodland and Hedgerows)

National Guidance

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

Planning Considerations

The principle of the development was established through the extant outline permission and the access and general layout (with the exception of landscaping) were approved under the first reserved matters application. This application is a minor change relative to the development as a whole and seeks permission to change housetypes at various locations both within the site and on the periphery, adjacent to the properties on Belfield Road and Elms Grove.

In assessing the merits of the proposals the main issues that result from the changes are impact on the design of the overall scheme and impact on neighbours.

In terms of overall design the proposed changes have not eroded the general layout to any significant degree and the revised housetypes sit comfortably with the remainder of the development which has already approved and is under construction. Examining the comments of the objectors it is noted that whilst the housetype at plot 19 has changed, the distance between the rear of that proposed

property and the site boundary to the west (including its rear garden and 5m buffer) remains the same as previously approved at approximately 13.5m; with the existing property, 1 Elms Grove, still separated by a distance well in excess of the Council's minimum adopted standard of 21m in this case. The previously approved housetype for plot 19 contained two first floor bedroom windows as well as a kitchen window and double doors/windows to the dining room at ground floor facing west towards the neighbour. The current proposed housetype for that plot is wider and contains two bedroom windows at first floor level as well as windows to the kitchen and dining room as well as double doors/windows to a family room at ground floor facing west towards the neighbour. This change to the width of the property or window arrangements are, notwithstanding the objections received, not considered to lead to such a loss of amenity in terms of loss of privacy and overlooking to reasonably justify refusing the application, by reference to the adopted supplementary planning guidance.

The landscaping details reflect those proposed for the wider site which are subject to a separate application for reserved matters under application 9/2016/0392, albeit slightly amended to account for the revisions proposed in this application; and whilst considered to be generally acceptable, this is subject to the receipt of amended plans to show further frontages hedgerows being provided around the site on the front and side boundaries to the properties.

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

Recommendation

Subject to the receipt of amended plans to show additional frontage hedgerow planting to plots and the imposition of an additional condition to refer to those amended plans, prepared under delegated authority given to the Planning Services Manager; **GRANT** approval of reserved matters subject to the following conditions:

1. Notwithstanding annotations shown on the approved drawings, unless otherwise agreed in writing by the Local Planning Authority gutters and downpipes shall have a black finish.

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

2. The development shall be implemented incorporating the building details as shown on the following drawing numbers:

CE[13]19_01_02_03_04 – Large Timber Lean-To Porch Details
MI106-PD-001 (1:100)(Misc Planning Drawing+M-Porch 1)
MI106-PD-002 (1:100)(Misc Planning Drawing+M-Porch 2)
MI106-PD-003 (1:100)(Misc Planning Drawing+S-Porch)
MI106-PD-004 (1:100)(Misc Planning Drawing+A-Frame Porch)
MI106-PD-005 (1:100)(Misc Planning Drawing+Lean To Porch)
MI106-PD-006 (1:100)(Misc Planning Drawing+Cill & Arch)
MI106-PD-007 (1:100)(Misc Planning Drawing+Eaves & Verges)

These building details shall be retained as approved throughout the lifetime of the development.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and fronts a highway or public open space; there shall be no alteration to any gate wall fence or other means of enclosure adjacent to any highway or public open space; and there shall be no alterations to any roof of any dwellinghouse which forms the principal elevation of the dwellinghouse and fronts a highway or public open space.

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

4. The development shall be implemented incorporating black coloured gas and electricity meters, black garage doors, black front doors, black UPVC soffits, fascias and barge boards with wet bedded verges as referred to on drawing number MI098-MAT-MOE-001 Rev N. These finishes shall be retained as approved throughout the lifetime of the development.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

5. Notwithstanding the submitted details, the landscaping buffer zone shown on the approved layout plan which runs north-south along the western boundary and east-west along part of the northern boundary of the site, adjacent to existing properties, shall specifically be excluded from any of the gardens of any of the dwellings contained within the development.

Reason: To ensure that the landscaping buffer zone is maintained in order to protect the amenity of neighbours and in the interests of visual amenity.

Informatives:

- a. The applicant is advised that notwithstanding the submitted details, the submitted Landscape Management Plan is considered to be unacceptable in its current form and as such is not agreed.
- b. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **2.1**

Reg. No. **9/2016/0577/OS**

Applicant:
Mr Steve Louth
c/o Agent Richborough Estates

Agent:
Tom Collins
Fisher German
The Estates Office
Norman Court
Ashby de la Zouch
Leicestershire
LE65 2UZ

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 85 DWELLINGS WITH ASSOCIATED ACCESS, LANDSCAPING, OPEN SPACE AND DRAINAGE INFRASTRUCTURE ON LAND AT SK4128 0287 WESTON ROAD ASTON ON TRENT DERBY**

Ward: **Aston**

Valid Date: **07/06/2016**

Reason for committee determination

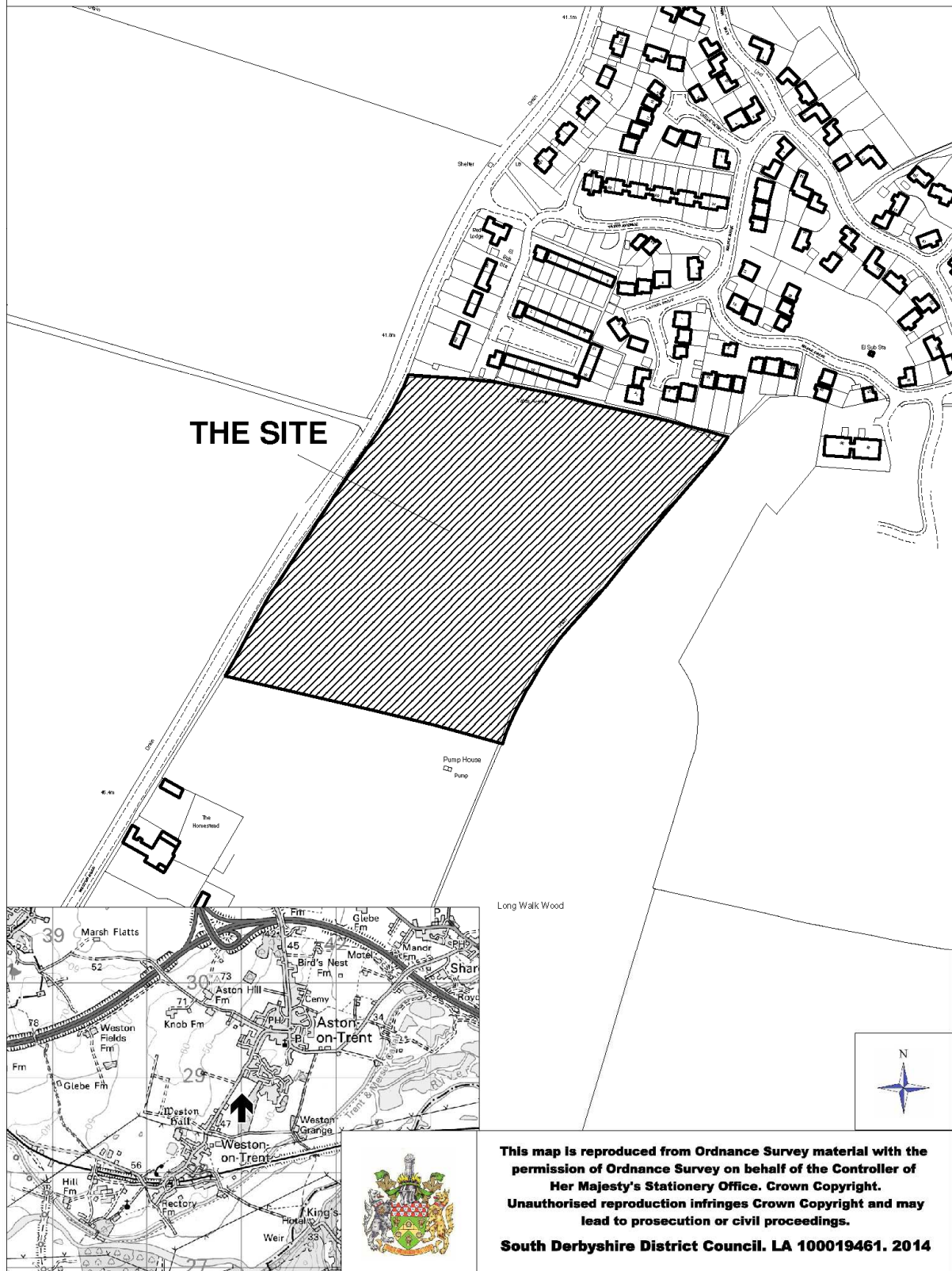
The item is presented to Committee at the request of Councillor Peter Watson as local concern has been raised about a particular issue. In addition, the proposed development is not in accordance with the development plan.

Site Description

The application site extends to approximately 4.12 hectares, located to the south of the village of Aston on Trent, and comprises an agricultural field within the open countryside.

The site is bound to the north by the rear boundaries of existing residential properties on Yates Avenue, this boundary characterised by an existing hedgerow with occasional trees. To the east is Long Walk Wood, an area of mixed woodland planting which screens the former Aston Hospital site beyond. This is a designated Local Wildlife Site (LWS) and covered in part by a group Tree Preservation Order (TPO)). To the south lie further agricultural fields bound by existing hedgerows and the village of Weston on Trent. The western boundary is formed by an existing hedge running alongside Weston Road. Beyond Weston Road to the west lie open agricultural fields on gradually rising topography.

9/2016/0577 - Land at SK4128 0287 Weston Road, Aston on Trent, Derby
(DE72 2BG)



Proposal

The application seeks outline planning permission for the residential development of the site for up to 85 dwellings, with all matters save for access reserved for future approval. Vehicular access to the site is proposed from Weston Road, in the vicinity of where the speed limit reduces from 40mph to 30mph. Pedestrian access is proposed from the site to link with the existing footpath which runs along the eastern side of Weston Road across the site frontage.

Whilst in outline, the application is supported by an illustrative masterplan, which envisages 2.63ha of the site to be developed for housing at a density of 32 dwellings per hectare. The development includes the provision of 30% affordable dwellings, and a mix of dwelling sizes to generally reflect the housing needs of the District, including the indication of two bungalows. The layout indicates 1.49 ha of public open space (POS) of which 0.71 ha would be formally laid out, and includes Sustainable Drainage Systems (SuDS) and the provision of green 'buffer' areas to the site boundaries.

Applicant's supporting information

The Design and Access Statement sets the policy context for the site, including an assessment of the site, its surroundings, the landscape context of the site, the historic and recent development of Aston on Trent. Taking these matters in to account the statement develops an opportunities and constraints plan and masterplan. The plans include the retention of landscape features, provision of SuDS, the creation of an internal green network, identification of development blocks, and the creation of a soft southern edge to the site. Whilst the application has been submitted in outline an indicative layout has been developed, with different character areas and recommendations for the appearance of streets, spaces and building forms.

An Archaeological Assessment confirms that there are no designated heritage assets within the application site, and that the development would have no direct or indirect impact on the heritage significance of any designated heritage assets. Whilst there are no known non-designated heritage assets recorded on the site, the site sits in an area known to have been the focus of ceremonial, settlement and agricultural activity spanning the Neolithic to Iron Age. As such the site likely to contain Prehistoric remains of local and regional importance. As a result of this a programme of 5% trial trenching is recommended, if remains are uncovered a scheme of strip map and sample excavation will be required to mitigate any loss of significant archaeological features.

A Geophysical Survey of the site has been undertaken. However, as the site had been the subject of recent 'green waste spreading' the survey was unable to determine whether there is any evidence of archaeological remains below the surface.

The Economic Benefits Statement sets out the benefits of the scheme, including the direct and additional construction employment generation and productivity, population growth, labour force expansion, enhanced local income, expenditure and

employment and an increase in public revenue. The benefits associated with the proposed development are considered to be significant and would contribute not only to meeting local housing need and demand, but would also make a valuable contribution to the local viability and vitality of Aston-on-Trent as a sustainable and balanced community. At a strategic level the proposed development would support net additional employment and growth in the wider South Derbyshire district and the East Midlands regional economy.

The Flood Risk Assessment (FRA) and Sustainable Drainage Strategy considers that the proposed development is not at elevated risk of flooding although part of the site is at some risk of surface water flooding. SuDS are proposed to manage the surface water on the site and are designed to ensure they offer multiple benefits in respect of their incorporation into the green infrastructure and the creation of new habitats to secure biodiversity enhancements. The drainage strategy proposed for the site would ensure that sufficient hydraulic capacity is provided to manage local flood risk and would limit the annual average run off rates to the green field rates of the site at present.

The Foul Water and Utilities Assessment identifies that the site is well served by existing utility services, which in the main would be served from an existing service within Weston Road. Additional capacity assessments are required relating to the foul water network to establish the likely impact downstream.

The Ground Investigation Assessment considers there to be limited potential for contaminants to be present at the site, considering its current and historic agricultural use. Any risk is considered to be easily mitigated and in any event intrusive ground investigations are recommended in order to accurately establish the actual situation on site.

The Landscape and Visual Impact Assessment undertakes an assessment of national and local policy relating to landscape and visual amenity. The site sits within the 'Trent Valley Washlands' and 'Lowland Village Farmland' character areas/type. The site is considered to be a characteristic settlement fringe landscape, located on the immediate southern edge of the existing settlement with which it has a visual relationship. The site is also influenced by the wooded backdrop of Long Walk Wood. The site forms one of two fields separating the settlements of Aston-on-Trent and Weston-on-Trent. Whilst this separation is not protected by local policy, the site is perceived locally as forming an undeveloped gap between the settlements. This perception of the sites value is localised and overall it is considered that there is nothing associated with the site that makes the land as a whole more than ordinary. Key landscape features within the site, principally the trees and hedgerows around the boundaries, are all to be retained by the proposed development, which would also include significant areas of public open space and landscaping around its boundaries and the creation of a broad landscape buffer to the south. At present the site comprises private agricultural land with no public rights of way through or immediately adjacent to it. The assessment considers that the site is not a valued landscape in terms of the NPPF and concludes that the proposed development would have a local/limited scale minor adverse effect on the landscape character area once the proposed mitigation is established; and subject to the careful design of

the scheme, the proposal is not considered to be out of keeping with its settlement fringe location.

An Ecological Appraisal considers the presence of protected habitats or species within or adjacent to the site. The key habitats are comprised of the hedgerows and trees surrounding the site, all of which are to be retained (save for the creation of the access) and protected. A LWS (Long Walk Wood) is located to the east of the site and would need to be protected from pollution during the development. In terms of protected species those likely to be present are nesting birds, bats and amphibians, but subject to the proposed 10m buffer adjacent to the Long Walk Wood there are not considered to be any significant impacts on protected species.

The Ecological Mitigation Strategy provides details of measures for mitigation and habitat creation and enhancement. This includes the creation of wildlife corridors, retention of hedgerows and trees, provision of SuDS including a wildlife pond, native planting, and bird and bat features. The provision of these features have been taken into consideration in preparing the indicative development proposals for the site.

A Hedgerow Survey of the three hedgerows within the site was undertaken in order to assess their importance under the Hedgerow Regulations. The hedges are considered to be at least 30 years old, each with less than 5 'woody species', whilst no information was available on the historic importance of the hedgerows (i.e. marking the boundary of a pre-1600 estate or manor, or part of a field system pre-dating the Enclosure Act). The report considers it likely that the hedgerows would contain protected species and the principle of its removal would need to be approved as part of this application. A small section of hedge is required for removal in order to facilitate the provision of the site access.

The Planning Statement provides an overview of the development proposal, a summary of the planning policy context and an assessment of the proposals against these policies and other material considerations, including the NPPF. It specifically discusses the principle of development, economic considerations, social considerations, and the environmental role (design, highways and transport, landscape and visual impact, ecology and trees, flooding, drainage and utilities, archaeology, and ground conditions and soil quality). An assessment of the policies within the 1998 Local Plan and the now adopted Local Plan Part 1 is also undertaken. The assessment concludes that overall, in terms of national and local planning policy; the site can be considered a deliverable and achievable housing development constituting sustainable development in meeting the tests of both NPPF and the locational strategy within the emerging Local Plan. The statement also opines that South Derbyshire does not currently have a 5 year housing land supply.

An Agricultural Land Classification Assessment identifies the site as being primarily Grade 3a (3.2ha), with a smaller component of Grade 2 (0.9ha) agricultural land. Noting that the field has to be farmed in accordance with the lowest grade present, the Planning Statement considers that the relatively small size of the field and its separation from the farm unit would reduce its suitability for modern arable farming techniques. Given the need to release additional greenfield land to meet the needs of the District, as the site classification falls under the lower level of best and most versatile agricultural land its loss to residential is considered to be acceptable.

The Statement of Community Involvement details the community consultation undertaken as part of the preparation of the application, which included a public exhibition being held at All Saints' Heritage Centre on the 23 October 2015. A total of 70 comments of objection were received and 1 of support. The main areas for concern related to the coalescence of Aston on Trent and Weston on Trent, the principle of development and the highway impacts. The statement includes discussions on each of these points and concludes that these matters are considered to be adequately addresses within the planning application and its supporting documentation.

The Sustainability Statement sets out the sites accessibility to local services and undertakes a sustainability appraisal of the development proposals. This includes setting out the services available in Aston on Trent, Weston on Trent and Chellaston, and the range of sustainable measures proposed within the development that would enable new well designed and resource efficient homes to be delivered.

A Transport Assessment sets out the policy background to the assessment of traffic impacts and the existing traffic situation in the surrounding area. The assessment predicts the development would result in an additional 50 peak am trips (08:00-09:00) and 56 peak pm trips (17:00-18:00). Taking in to account the traffic forecasts and committed developments (including an acknowledgement of the on-street parking on Weston Road), the assessment considers the impact of the development on the site access and the junctions of Weston Road/Willow Park Way; Weston Road/Chellaston Way; and Derby Road/Weston Road/Shardlow Road/The Green. All of these junctions are predicted to operate within capacity, with minimal queues and delays, in the future year of 2021 when committed and development traffic are added to the network. The development is not predicted to have a material impact on the local highway network; therefore no improvements are proposed to these junctions as a result of the development. Accident analysis across the local highway network has indicated that there are no specific issues with highway safety that would require remediation. A Construction Environmental Management Plan (CEMP) would be implemented at the appropriate time and heavy construction traffic routed via major roads so as to minimise inconvenience and disturbance to existing residents and traffic. The assessment concludes that the work undertaken demonstrates that, in NPPF terms, the residual cumulative impact of the proposal is generally low.

The Travel Plan sets out objectives to reduce reliance on the private car, encourage the use of alternative modes of transport, reduce the overall impact of the development, and support the specific needs of the site users. Generally the site is considered to a sustainable location, with access to local services, and hourly weekday bus services to Derby City Centre. The Travel Plan initiatives include providing information packs for each resident, a public transport voucher, the upgrading of the existing bus stop on Weston Road, and the appointment of a Travel Plan co-ordinator.

A Tree Survey assesses the category of the trees which surround the site. Of the 9 trees assessed, 5 are considered to be of moderate quality and 4 of low quality. The

application does not propose the removal of any trees as a result of the development proposals.

Planning History

None relevant to the current application.

Responses to Consultations

The Environmental Health Officer has no objections in principle but recommends the inclusion of conditions relating to dust and noise mitigation during the construction phase.

The Strategic Housing Manager comments that the development should provide 30% affordable housing (26 dwellings), with a minimum of 75% (20 dwellings) being for rent and a maximum of 25% (6 dwellings) for intermediate purposes. A focus towards 2 and 3 bed dwellings is sought.

The Contaminated Land Officer has no objections to the proposal, and following comments on the Ground Investigation Assessment does not recommend conditions. Whilst it is recommended that it would be wise to undertake further 'Phase 2' investigations, it is not deemed necessary.

The Crime Prevention Officer considers that any comments would be best restricted to the reserved matters application but does note that the footpath link in to the woodlands should be provided with an open aspect and sight lines where the link emerges from the woodland in to the site, as well as the periphery and circular footpath route.

Derbyshire Wildlife Trust has considered the submitted surveys and judges the reports to provide an accurate and up to date assessment of the habitat types and protected species within and affected by the development. There are not considered to be any significant impacts on protected species in developing the site. In terms of the habitats generally there would be no significant impacts but the site access should be provided in an area where there is already a gap within the existing hedge. As bats and badgers are known to forage on the site conditions are recommended requiring the submission of a lighting strategy and protection of trenches, etc. during construction. The submission of a CEMP is also recommended as a condition.

Natural England has no comments to make on the application.

The Lead Local Flood Authority (LLFA) notes that the submitted FRA would enable the site to be drained sustainably, subject to conditions requiring the recommendations of the FRA and drainage strategy to be followed.

Severn Trent Water has no objections to the proposal subject to the inclusion of a drainage related condition on any permission

The Environment Agency have no specific comments to make on the proposals bearing in mind the site is located in Flood Zone 1.

The Development Control Archaeologist comments that the site is in an area of known prehistoric activity. Whilst the site is in an area of medieval ridge and furrow, none of this survives within the site due to its intense arable use. However the geological nature of the site suggests that the site is likely to contain archaeological remains and as such a condition requiring trenching and archaeological evaluation is recommended.

The County Highway Authority notes the comments with the submitted Transport Assessment (TA), which recommend the relocation of the existing 30mph to 40mph speed limit. As this is unlikely to be supported by the Highway Authority or Derbyshire Police; the access will need to be designed in accordance with actual speeds and appropriate visibility sightlines. As the submitted information demonstrates that the that the proposed access can be provided with appropriate visibility splays, and that a suitable junction layout can be achieved subject to the footway fronting the site being widened to 2m; there are no objections from a highway safety perspective subject to detailed conditions and the payment of a Travel Plan monitoring fee of £500 per annum for a 5 year period to be provided through a Section 106 Agreement.

The NHS Southern Derbyshire CCG has requested a contribution of £32,410 towards enhancing the capacity at Alvaston Medical Centre to ensure that additional patient numbers can be accommodated.

The County Planning Policy Officer comments that the proposed development would generate the need to provide an additional 17 primary school places at Weston on Trent CE (Aided) Primary School. However, as the capacity of the school can accommodate 10 of the projected increase, a contribution of £79,793.07 is requested (based on the balance of 7 places) for a classroom extension. In terms of secondary provision the development falls within the normal area of Chellaston Academy, within Derby City. A contribution towards the provision of facilities to accommodate an additional 17 school places is requested at a total of £299,253, which would be directed towards the provision of additional sports teaching areas at the school.

Responses to Publicity

Weston on Trent Parish Council objects on two main principles:

- i) The site is classified under “Not suitable Part 2 Sites’. This should be retained in the final plan and the site should not be developed;
- ii) The site fails to meet a number of planning requirements – the site is outside the village boundaries and would remove the historic separation of the villages and adversely affect the identities of both villages; the development would unbalance the Aston settlement boundary with green fields opposite; this would not be in keeping with the varied character and low density of the villages; the masterplan is poor with no communal facilities and no attempts to integrate the site with the existing community; no protection for the Long Walk Wood; no evidence that the mains sewer has capacity; the development would increase the risk of flooding; with the Richmond Homes site this is too much too soon; highway safety with roads too narrow and the development

would cause risk of serious accidents; the existing bus service would need to be extended in to the evening and weekends to support the development; Aston and Weston primary schools are at or near capacity, Chellaston School is heavily oversubscribed; and local Doctors are full.

Aston on Trent Parish Council objects and considers that the application seeks to join two separate parishes and is simply wrong:

- i) The NPPF states that 'our historic environments can be better cherished if their spirit of place thrives, rather than withers' and bringing these two historic communities together threatens this strategic and overriding principle;
- ii) Comments are then directed to the 12 NPPF core planning principles: development should be plan led, the site is outside the development boundaries, is over 25 dwellings as restricted by the Local Plan Part 1 and the Draft Plan Part 2 declares the site unsuitable; as Aston has already met $\frac{3}{4}$ of its housing allocation this proposal is unnecessary; this development would neither enhance or improve the villages; sustainability is threatened by the likelihood that the villages would be overwhelmed; the merging of two separate villages would create irreversible change; the development would not support a low carbon future with all needing to use the car, with there no public transport in place after 6pm or at weekends; an increased risk of flooding as the site acts as a collection point for surface water, and the proposals for SuDS are unsatisfactory; the wildlife corridor at Long Walk Wood would not be conserved by this scheme; the site is undeveloped ancient farmland; the heritage of two ancient settlements is threatened by bringing them together; Part 2 of the Local Plan is not yet agreed and this site is not needed; and there is a presumption against development outside settlements unless it relates to a rural based activity.

A total of 245 letters of objection have been received. This includes a letter from Heather Wheeler MP and Derbyshire County Councillor Rob Davison. The following concerns have been raised:

Principle

- a) The development is outside the settlement boundary agreed in the Local Plan Part 1 and detailed in the Draft Local Plan Part 2;
- b) SDDC is now able to demonstrate a 5 year housing land supply, the submitted information is incorrect;
- c) The development is over the 25 threshold in the Local Plan for a Local Service Village and is not affordable;
- d) The proposed allocated site on Moor Lane is far more suitable;
- e) The proposal goes against the 12 core planning principles of the NPPF
- f) New development should be proportionate to the villages;
- g) The rich fertile soil should be kept for agriculture;
- h) Use should be made of brownfield land as a priority over greenfield sites;
- i) Aston has suffered a disproportionate number of developments in recent years and enough is now enough;
- j) This could lead to further large scale developments on adjacent sites;

- k) Planning approvals should be 'Plan Led' Part 2 of the local plan is still out to consultation;
- l) The Council should encourage re-use of previously developed land before greenfield sites;
- m) Land within the village has been designated as suitable for building, smaller sites such as this within the village would not have such a great impact;
- n) The Local Plan Report states that the proposed limitations of 15 dwellings and 25 dwellings for key service villages, are reasonable to protect rural character;
- o) The adverse impacts of the development, its size, location and design would significantly and demonstrably outweigh the benefits it brings;
- p) SDDC can meet their housing needs without this site being developed;
- q) Brownfield sites such as Willington power station should be developed before this site;
- r) The settlement boundaries define the built limits of a settlement and distinguish between the built form and the countryside, these provide a strong premise for defining and protecting the countryside from unnecessary encroachment.

Character

- s) The development would close the space in between the two villages changing the character of each village, each village has its own character and wishes to remain so;
- t) The development will close the gap between the villages;
- u) The existing boundary to Aston is described as harsh but this forms a historical feature as the houses were for staff of the former hospital and this is a clear demarcation of the edge of the village;
- v) This development will change the character of both villages to its detriment;
- w) The social character of the two villages is different and must be kept separate to ensure their individuality is maintained;
- x) The proposal will have an unseemly and detrimental impact on the open countryside approach to Aston from Weston destroying local characteristics;
- y) The development will destroy the charm and character of both villages;
- z) Development should enhance and improve places this does neither;
- aa) The development should conserve heritage not bring together two historic settlements;
- bb) The site is considered to form a strategic gap between the two settlements as per the Draft Local Plan Part 2;
- cc) This development will eventually lead to the joining up of the ribbon developments of the land in-between Aston and Weston;
- dd) Paragraph 64 of the NPPF requires new development to improve the character and quality of an area, this will not improve anything;
- ee) The proposal would destroy the landscape character of Aston;
- ff) The development would profoundly affect the village, its shape, character and delineation;

- gg) The development is contrary to Policy BNE5 of the Local Plan Part 2 as the development would not conserve and enhance the district's countryside green character;
- hh) The development is not well related to Aston;
- ii) Destruction of the green belt between the two villages;
- jj) This would erode the natural open space between the two settlements;

Highway Safety/Accessibility

- kk) The villages already suffer with heavy traffic causing jams;
- ll) The current weight restrictions are totally ignored;
- mm) Parking in the village causes a daily nuisance;
- nn) Lack of frequent bus services;
- oo) 170 new vehicles will gridlock Weston and Aston;
- pp) Up to 340 new vehicles would not be acceptable in the villages
- qq) Increases in Co2;
- rr) The transport survey does not take in to account the increase in traffic from the Richmond Village staff;
- ss) Increased risk of accidents on Weston Road;
- tt) Danger to pedestrians and children accessing the school;
- uu) The transport assessments are inadequate and laughable;
- vv) The site is not readily accessible by public transport as the existing services are at threat;
- ww) HGVs in the village currently cause danger to the public;
- xx) The existing village is too small to cope with the increase in traffic;
- yy) The site access is on a blind spot;
- zz) Traffic surveys should be taken at peak times at the centre of the village during the normal working week;
- aaa) Safety for pedestrians on Weston Road;
- bbb) The Transport Assessment is based on the trips for the retirement village which is an entirely different demographic. This underestimates the assessment by 60%. Add a second car to the assessment and this is severely underestimate by 100%;
- ccc) The junction of Swarkestone Road and Cuttle Bridge is already difficult and dangerous, this will be unacceptable;
- ddd) The study does not consider the busiest times for traffic 3-4pm due to busses and schools;
- eee) The Weston Road and Swarkestone Road junction is dangerous and improvements are needed
- fff) Photos have been provided showing HGV's struggling to manoeuvre within Aston;

Impact on Services

- ggg) It is already difficult to obtain an appointment at the medical centre;
- hhh) The village schools are filled to capacity, as is Chellaston Secondary school;
- iii) The amenities of the village cannot cope with the scale of development;
- jjj) The villages would be overwhelmed;
- kkk) Doctors in Aston, Alvaston and Chellaston are massively overstretched;

- lll) The existing village shop is just that not a food store as described in the application;
- mmm) An increase in the village population of 25% is excessive;
- nnn) The cumulative impacts of this development and the Richmond Homes Retirement Village have not been adequately taken in to account;
- ooo) The village hall and recreation centre are constantly overbooked;
- ppp) Many people have to go to Derby to access the Doctors;
- qqq) Lack of facilities for older children and teenagers in the villages;

Drainage/Flooding

- rrr) Heavy rain causes backing up of toilets and flooding in low lying areas;
- sss) The requirement for pumping foul sewerage is inappropriate;
- ttt) The swale outfall to the ditch could cause odour;
- uuu) The drains cannot currently cope with heavy rainfall;
- vvv) Resultant increase in the local water table;
- www) The pumping station has failed recently, this will add to the problem;
- xxx) Regular flooding in Yates Avenue would be exacerbated by the development;
- yyy) Responsibility for maintenance of the swales;

Protected Species/Biodiversity

- zzz) With housing on three sides of the Long Walk Wood protected species including bats will be affected by light pollution a 10m margin is not enough;
- aaaa) Permanent loss of wildlife due to impact on Long Walk Wood;
- bbbb) Loss of hedgerow for visibility splays would be detrimental;
- cccc) Bats are often seen flying around the area;
- dddd) Impact on the existing broadleaved woodland;
- eeee) The cumulative impacts of this development and the Richmond Homes Retirement Village have not been adequately taken in to account;
- ffff) The ecology reports are full of secondary information, and gaps in surveys;
- gggg) Impact on loss of habitat for Yellow Hammer;

The development proposals

- hhhh) The site is to be overdeveloped with reduced space between properties affecting privacy;
- iiii) The dead ends proposed does not provide enough space for visitor parking;
- jjjj) As this is speculative there is no guarantee the development would be high quality design;
- kkkk) Uncertainty as to the meaning of 'key building';
- llll) The play space close to the wood would provide a safety issue as it lacks natural surveillance;

Other issues

- mmmm) Increase in noise and light pollution;
- nnnn) Noise form increased traffic;
- oooo) Until the impacts of the retirement village is realised no new development should take place;
- pppp) Richborough Estates only exists to profit from selling-on approved applications;
- qqqq) There is not an economic case for the development other than the benefit to the developer;
- rrrr) Should this be given the go ahead which Parish gets the money? Aston bears the brunt yet receives none of the compensation;
- ssss) Loss of views from the housing on Yates Avenue;
- tttt) The land is not in Aston but Weston as indicated in the submission;
- uuuu) The archaeological surveys were clearly useless, and should be done again with the top soil removed - a flint scraper was found on the lower slopes of Aston hill (5,500 years old);
- vvvv) Potential damage to foundation to dwellings on Weston Road from construction traffic;
- wwwv) The local residents are sick and tired of local planners simply acquiescing to the greed of the developers and the local residents are looking for them to represent the people they are supposed to serve.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).
- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features).

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development); H23 (Non-Strategic Housing Allocations); BNE5 (Development in the Countryside); and BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

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

Planning Considerations

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

- The principle of development;
- Landscape and visual impacts;
- Loss of agricultural land;
- Highway safety;
- Biodiversity; and
- Section 106 contributions

Planning Assessment

The principle of the development

As members will be aware planning applications must be determined in accordance with the development plan unless there are material considerations that indicate otherwise. Following the adoption of the Local Plan Part 1 (LP1) the Council is now in a position to be able to demonstrate a 5 year housing supply, currently standing at 5.33 years as accepted in recent appeal decisions. Therefore the housing policies making up the development plan are up to date for the purposes of determining planning applications and carry full weight. As such, new residential development should be directed to the most sustainable sites within the District (i.e. those allocated within the Local Plan or sites within the defined settlement boundaries). The LP1 sets the strategy for development within the District through policies S1, S2 and S4 and highlight the importance of the presumption in favour of sustainable development. The LP1 itself provides a framework for sustainable development in the District, with it also designed to enable the meeting of the objectively assessed housing need over the plan period.

Policy H1 of the LP1 sets the settlement hierarchy and identifies Aston on Trent as a Key Service Village (KSV) where development outside the settlement boundary are not supported unless they are adjacent and constitute an exception or cross subsidy site (i.e. an affordable dwelling led scheme of not greater than 25 dwellings) as assessed against policy H21. Although the application site is adjacent to the settlement boundary (both existing and proposed in the Local Plan Part 2 (LP2) review), the proposal is not an exception or cross subsidy site and is therefore not supported in principle by policy H1. This approach is reflective of saved policy H5 of the 1998 Local Plan (LP98) which seeks to restrict new housing development to existing village confines. This plan also originally had a similar 'exceptions'

allowance reflecting the current approach under policy H1, but it is not a saved policy.

The LP2 will allocate a minimum of 600 dwellings across the District to meet the identified housing need not met by the strategic sites allocated in the LP1. The draft version of the LP2 has been consulted on and is currently undergoing its pre-submission consultation. This part of the plan includes the allocation of non-strategic sites (i.e. those sites under 100 dwellings not identified within the LP1). The application site has been considered as part of the LP2 Sustainability Appraisal (October 2016) and was deemed to be unsuitable for the following reason:

“...The site is visually prominent, and that development would significantly affect the character and appearance of Weston Road which is a key route into the village. Development would also reduce the gap between the villages of Aston on Trent and Weston on Trent.”

It is noteworthy that housing land supply is not reliant on the allocation of sites within the LP2 given that the LP1 has been adopted and provides, in itself, a supply in excess of 5 years. This supply is based on sites with permission or allocated within Part 1 and no new sites (i.e. those without permission) proposed for allocation within Part 2 currently contributes to this 5 year housing land supply.

Policy EV1 of the 1998 Local Plan states that outside settlement boundaries new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside, and the character of the countryside is to be safeguarded and protected. The proposed development does not meet the criteria for being considered favourably under policy EV1 as the proposal is considered to be avoidable as the housing policies in the LP1 and LP98 are now considered up to date given sufficient housing land is allocated in order to secure the necessary housing delivery to meet the needs of the District.

It is not in doubt that the new houses would have economic and social benefits through occupiers of new dwellings supporting businesses and community facilities in Aston on Trent, as well as the affordable housing providing social benefit it is own right; and there would be some economic benefits through the construction phase of the development. However these aspects do not begin to outweigh the environmental harm as a result of the loss of this greenfield site and intrusion into the countryside, as outlined further below.

Landscape and visual impacts

The site is located within the national ‘Trent Valley Washlands’ character area, and the local ‘Lowland Village Farmlands’ character area. These character areas are described as gently rolling, almost flat, lowland with river terraces, containing mixed farming with arable cropping and improved pasture, medium to large regular fields with thorn hedgerows, and discrete red brick villages with farms and cottages. It is considered that these character areas are reasonably accurate in describing the landscape character of the application site. It is acknowledged that the site does not exhibit the qualities that would deem it to be a ‘valued’ landscape for the purposes of the NPPF. However, this does not mean that the site is not valued locally and an

assessment needs to be undertaken as to the impact of the proposed development on the character and appearance of the area.

There are a number of policies which are relevant to this assessment. Indeed the objectives of the LP1 and the LP98 are clear that new developments need to protect and enhance the open countryside and the quality of the landscape, and preserve the identity, character and environmental quality of South Derbyshire's villages and rural settlements. Policy S1 of the LP1 highlights that "it is essential that the District's heritage assets, landscape and rural character are protected, conserved and enhanced". Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics. With new developments expected to be visually attractive, appropriate, which respect important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness and quality of the District's landscape through careful design and the sensitive implementation of new development. In particular part B of the policy sets out that "...development that will have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted".

The application site is currently an open undeveloped agricultural field, which coupled with the other open fields in-between the villages of Aston and Weston give this area its open character, providing visual and spatial relief between the villages. This sense of openness that the site provides aids in enhancing this feeling of separation and punctuation between the two villages and gives this area its strong character. The character of the site is first experienced passing along Weston Road (by foot or car) from Weston itself, along the ribbon of development to the north of that village, as well as the emergence from the built form of Aston on Trent to the northern boundary of the application site. Along the site frontage, this separation is most strongly felt. Footpaths in the area also allow this break between the villages to be 'read'. The visual and perceptual gaps in-between existing villages are one of the strong characteristics of South Derbyshire, which provide each settlement with its own identity and individual character.

The development of this field would have a dramatic impact on the character and appearance of the area, and on the experience of the local landscape. The resultant development and enclosure of this open field would reduce the distinction between the villages currently experienced by reducing the openness and sense of visual relief that is currently afforded by the site, supported by the open fields on the opposite side of the road. The loss of this openness is considered to substantially and detrimentally impact upon the character and appearance of the area and local landscape character. The proposed development would also result in a clear movement of the village boundary from what is currently a strong and sensible edge to the settlement and see the development of a field that is firmly part of the surrounding open countryside. The reduction in the gap between the two villages would contribute to a loss of identity between them, and rather than contribute towards reducing the intervisibility between them as contended in the submitted LVIA it would physically increase it.

As part of the development proposals, the visual and landscape impacts of the development and the loss of the open field are proposed to be mitigated through the provision of landscaping and tree planting along the southern boundary of the site and along Weston Road itself, which the LVIA contends would soften and screen the development. The mitigation proposed would to some extent and after a number of years screen the development, but the effect of this screening would be to create an enclosing effect to one side of Weston Road along its entire length between the ribbon and Aston, channelling views out to the west only where there is presently the ability to fully appreciate the separation by views both east and west across at least one open field. This mitigation would introduce an entirely different character between the villages and not sufficiently mitigate against the impact of developing this field.

The existing hedgerow to Weston Road is reasonably strong and whilst, due to its height, it does not visually enclose the site along Weston Road; it does provide a strong linear feature along the road. It is noted that the proposed vehicular access and the necessary footway widening with associated visibility splays would result in the loss of at least 60m of hedgerow in a southerly direction from the access point. It actually seems likely that hedgerow across the entire frontage would be lost to facilitate this widening given the tight arrangement of the existing hedgerow and footway. Whilst this loss could be addressed in part with new hedgerow on site, this would only serve to heighten the visual impacts of the development when viewed from Weston Road given the greater distance from the footway would allow for easier views over the new hedgerow into the site.

Whilst it is considered that there could be some visual improvement to the southern boundary of Aston through screening the existing residential properties to the north by way of an outward facing development; the mitigation overall is not considered to sufficiently mitigate the visual impact of the development and its detrimental impact on the local landscape and character and appearance of the area. This leads the proposal to conflict with policies S1, BNE1 and BNE4 and saved policy EV1.

Whilst the LP2 is not yet adopted, due to its reliance on LP1 and that evidence base as well as the advanced stage in the preparation process; it can be afforded considerable weight in decision making. Policy BNE5 sets relevant criteria and only supports new development in the countryside where it is appropriate or it is demonstrated that it:

- “i) will not unduly impact on: landscape character, biodiversity, best and most versatile land, historic assets; and
- ii) is well related to a settlement or settlements; and
- iii) is not considered to be a valued landscape”.

The above discussion evidences that the proposal would have an undue impact on landscape character. Following discussion also identifies conflict in respect of loss of agricultural land. The proposal would have an undue impact in any case given there is no justification for the release of this greenfield site in principle, given the existence of a 5 year supply.

Loss of agricultural land

The site has been the subject of an Agricultural Land Classification Assessment, which identifies that the site contains soils which classify the entire site as 'Best and Most Versatile' (BMVL) (0.9ha is Grade 2 and 3.2ha is Grade 3a). Policy BNE4 of the LP1 and paragraph 112 of the NPPF seek to protect such quality agricultural land, and wherever possible direct development to areas of lower/poorer quality land. The applicant's justification for this loss (as detailed above) is not accepted. The land is sufficiently large enough to accommodate modern agricultural machinery and it is now common place for parcels of agricultural land to be some distance from the farm itself. The key in respect of this latter point is that the distance from the farm has no bearing on how the land can be cultivated. Furthermore, whilst it is noted that land in mixed grades has to be farmed according to the lowest recorded grade; all the land is in the higher tiers making up BMVL.

The PPG states "where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality [emphasis added]". Whilst no prescriptive methodology is set out, the general 'flavour' of appeal decisions dealing with this form of conflict has been to seek a sequential analysis of alternative sites to ascertain whether the site concerned needs to be released. In this case no such analysis has been undertaken and it is unlikely to provide support to the proposals given a 5 year supply exists, the site does not feature in the emerging LP2 and there are many sites of poorer quality land in the SHLAA which would fare better than this one.

There is hence conflict with policy BNE4 and indeed it is considered, given the extent of land lost and the relatively low availability of BMVL across the District; that this loss is significant in terms of the NPPF. The negative economic and environmental effects from the loss of BMVL weigh heavily against the sustainability of the proposal.

Highway safety

Vehicular access to the site is proposed from Weston Road, just inside the 30mph speed limit moving towards Aston on Trent from Weston on Trent. Pedestrian access to the site is proposed at two points from the site on to Weston Road (at the main access from the southern POS). These matters are to be considered in detail at this stage.

The vehicular access is proposed in the form of a priority T junction, with a 5.5m highway width and 2m wide footpaths to either side of the junction. The supporting Transport Assessment (TA) demonstrates that the site can be suitably accessed by large rigid vehicles. This part of Weston Road has been the subject of a speed survey which, in accordance with Manual for Streets, has been used to determine the visibility splay requirements in either direction based on reaction times and deceleration speeds of vehicles. The 85th percentile speeds along Weston Road (42.8 mph northbound and 38.8 mph southbound) have identified that visibility splays of 114.2m to the south and 95.4m to the north are required. In order to facilitate the access point, footways and required visibility splays hedgerow alongside Weston

Road would need to be removed, as discussed above. Accordingly there is no objection in these respects from the County Highway Authority.

Generally by virtue of the site location close to a wide range of services within Aston on Trent (a KSV) the site is considered to be a sustainable and accessible location in principle, with these services and facilities, and public transport, mostly within walking distance. In the interests of ensuring the matters outlined within the Travel Plan are carried forward the monitoring of the travel plan for a 5 years period is considered to be appropriate and would need to be secured through a Section 106 Agreement.

The TA takes in to account the likely trip generation from the proposed development, assessed to be an additional 50 two way movements in the am peak and 56 in the pm peak. Together with other committed developments within the vicinity of the site (including the Aston Hospital development) the site access and the following junctions have been assessed for their capacity to accommodate the development traffic and commitments at a base year of 2021 with all developments in place and fully occupied:

- J1. Weston Road/Willow Park Way;
- J2. Weston Road/Chellaston Way; and
- J3. Derby Road/Weston Road/Shardlow Road/The Green.

It is acknowledged that on-street parking occurs on both sides of Weston Road as it approaches J3 but in accordance with the TA the additional 36 (am) and 39 (pm) two way trips to this junction (just over one additional trip every two minutes) are not considered to have a material impact on the operation of this junction. Each of J1 and J2 are considered to operate within capacity and the predicted queues and delays as a result of the development are considered to be minimal. Whilst the County Highway Authority make no comment on the capacity of the local network, the proposed development is not considered to result in a significant adverse impact on the local highway network to such an extent to warrant refusal on these grounds.

The internal estate roads and parking provision have not been assessed under this application as they are only indicative and would be assessed at reserved matters stage. However, subject to conditions, there is no concern that the proposal could not achieve the minimum standards.

The concerns of local residents in respect of the impacts of construction vehicles on the highway are noted, particularly with regard to the junctions within Aston. The TA includes proposals for the implementation of a Construction Environmental Management Plan (CEMP) in order to minimise disruption and inconvenience to local residents and existing traffic on the network. Given the above, and lack of objection from the County Highway Authority overall, the proposal is considered to accord with policy INF2 and provisions of the NPPF in terms of highway safety.

Biodiversity

The site at present is comprised of an arable field, with improved grassland margins and hedgerows to the site boundaries. Long Walk Wood (a Local Wildlife Site) is

located adjacent to the eastern boundary, which as part of the detailed mitigation proposed includes a 10m buffer between the wood and the proposed development. Habitats of note close to the site (i.e. the hedgerows and boundary trees) have been largely excluded from the developable site. The proposed mitigation strategy includes native planting along with the ecological enhancements which are considered to result in small net gain in biodiversity. The submitted report and mitigation strategy is considered to be adequate in terms of assessing the impact on biodiversity and no protected species identified, although there is some evidence of foraging. It is noted that no objection has been raised by Derbyshire Wildlife Trust and hence the impact on biodiversity is considered to be appropriate in principle.

Section 106 contributions

Paragraphs 203 to 205 of the NPPF relate specifically to planning obligations and advise that these should only be sought where they meet all the following tests:

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

In addition the CIL Regulations places controls on the use of planning obligations for financial contributions to no more than 5 contributions per infrastructure type or project. The PPG also suggests that local authorities should not seek contributions from developments of 10 or less dwellings, although that is not applicable here.

Policies INF1, INF6 and H21 expect new residential development to be adequately supported by infrastructure and, where necessary, the impacts mitigated. Whilst additional strain on existing roads and sewers is inevitable with any new housing development, there is no substantive evidence to withhold permission on these grounds. However, in the interests of promoting and monitoring the sustainable transport measures outlined within the Travel Plan for the site a monitoring fee of £2,500 (£500 per annum for a 5 year period) is considered to be appropriate and justified.

As detailed above the application includes the provision of 30% affordable housing on site, which accords with the requirements of H21. Education and healthcare capacity is of concern and for this reason contributions to mitigate the impact are sought by the County, City and the CCG. Furthermore the proposal would have impacts on existing built and outdoor sports facilities off-site.

The Council's requirements for public open space for a development of 50+ dwellings require the provision of public open space and a locally equipped area for play (LEAP). This is indicated as some 0.71ha in area which, based on the indicative housing mix, would be compliant. However outdoor sports and built facilities would not be provided for on-site such that contributions would be required, as follows:

- £220.00 per person for outdoor sports facilities; and
- £122.80 per person for built facilities.

The County and City Education Authorities require contributions for education provision in order for local schools to be able to accommodate the projected increase in pupil numbers as a result of the development:

- £79,793.07 towards the provision of 7 primary places through a classroom extension at Weston on Trent Primary School; and
- £299,253.00 towards the provision of 17 secondary places at Chellaston Academy, with the contribution required towards the provision of sports teaching areas at the school.

The CCG considers that whilst a number of GP practices are likely to be affected by the development, the most likely to be affected is the Alvaston Medical Centre. As such a contribution of £32,410.00 is considered to be necessary in order to facilitate an extension and improvements to the centre to provide an additional 2 clinical/treatment rooms.

All the above sums have been reviewed against existing committed sums from other developments, and are compliant with the CIL Regulations.

Other Issues

Design and layout – whilst the application has been submitted in outline with all matters except for access reserved for future approval; the indicative site layout demonstrates how the site could be developed to the quantum proposed. In general, the principles outlined within the Design & Access Statement and the submitted masterplan appear to be well conceived and would result in the provision of a well-designed and laid out development.

Residential amenity – as only an indicative layout has been provided and no specific details in terms of the house designs are known at this stage; a further assessment of potential overshadowing, overbearing, overlooking and loss of privacy would need to be undertaken at the reserved matters stage. However the indicative masterplan indicates sufficient separation to the nearby dwellings to the north of the site.

Archaeology and heritage – in terms of the potential below ground archaeological remains on the site, the evaluation submitted in support of the application and the response received from the Development Control Archaeologist; it appears feasible to address further investigation, recording and (if necessary) preservation on-site by way of condition. There is also no substantive evidence at present which confirms the hedgerow to Weston Road to be important in terms of the 1997 Hedgerow Regulations.

Drainage – the application site is located within Flood Zone 1 and thus at a low risk of flooding. Whilst the FRA has identified some risk of flooding from surface water this has been taken in to account to ensure that the rate of drainage in to the adjacent watercourse is restricted through the use of an on-site swale. The LLFA has no objections subject to a detailed design being submitted and approved at the detailed reserved matters stage or conditioned.

Conclusion and the Planning Balance

Matters of highway safety, heritage, drainage, biodiversity and design are considered to be acceptable in principle, subject to conditions where necessary. Impacts on existing infrastructure can be appropriately mitigated by way of planning obligations. However the site is located outside the defined settlement boundary for Aston on Trent, with no special circumstances that would presently warrant support in principle for the development of the site and the resultant encroachment of built development in to the countryside contrary to the plan led system and the sustainable spatial strategy of the Local Plan. This conflict with the plan led system indicates an unsustainable approach to development from the outset.

Further significant harm arises in the environmental and economic dimensions. The proposal development is considered to have a detrimental impact on the character and appearance of the area by virtue of introducing residential development on an open and visually prominent greenfield site which currently forms an important component of the character and appearance of this spatial and perceptual gap in-between Aston and Weston on Trent. Hedgerow loss to facilitate access would also lead to long term changes to the character of the area whilst the proposal would also lead to the unwarranted and significant loss of best and most versatile agricultural land.

In considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is evident that there are social and economic benefits of the scheme through the provision of new housing (including affordable housing) but this does not begin to overcome the environmental and economic concerns of developing the site, which results from the introduction of built development and loss of hedgerow to facilitate access in an area where it would significantly impact on the character of the area, as well as the loss of best and most versatile agricultural land. It is considered that this environmental harm outweighs the benefits of the scheme in its own right. With the proposal also be contrary to the strategic and plan-led approach to sustainable housing delivery in the District, the development would fail to facilitate the government's objective of sustainably boosting the supply of housing.

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

Recommendation

REFUSE permission for the following reasons:

1. The site is located outside the settlement confines for Aston on Trent and does not benefit from an allocation in the Local Plan Part 1 or emerging Local Plan Part 2. The proposed development also fails to qualify as an affordable led scheme. With the proposal not benefitting from any other policy presumption in favour, and the Council being able to demonstrate a 5 year supply of housing land; no justification exists in order to justify a departure from the plan-led approach to sustainable delivery of objectively assessed housing needs within the District. The proposed development would therefore

represent an unwarranted incursion in to the countryside, leading to the unjustified loss of greenfield land and not representing sustainable development in principle; contrary to policies S1, S4 and H1 of the Local Plan Part 1, saved policies H5 and EV1 of the Local Plan 1998, emerging policies SDT1 and BNE5 of the Local Plan Part 2, and the provisions of the NPPF.

2. The proposal would result in the enclosure and sub-urbanisation of an area of land which contributes significantly to the open, legible and spacious break in-between the built environment of Aston-on-Trent and Weston-on-Trent, and would result in significant harm to the character and appearance of the area and the local landscape - visually and perceptually reducing the separation of the two settlements to an unacceptable degree. The proposal is therefore contrary to policies S1, BNE1 and BNE4 of the Local Plan Part 1, saved policy EV1 of the Local Plan 1998, emerging policy BNE5 of the Local Plan Part 2, and paragraph 17 of the NPPF.
3. The site is identified as grade 2 and 3a agricultural land, considered to be 'Best and Most Versatile' (BMV). The economic and other benefits of BMV agricultural land should be recognised through the planning system, with such land safeguarded as far as is practicable by steering new development towards areas of poorer quality land. The applicant has failed to demonstrate that the development of this site is necessary and could not be accommodated elsewhere on a lower quality of land, especially when a 5 year housing land supply exists and the site is not an emerging allocation in the Local Plan Part 2. Given the limited availability of BMV agricultural land in the District and the size of the site concerned, the loss is considered to be significant and contrary to policy BNE4 of the Local Plan Part 1, saved policy EV1 of the Local Plan 1998, emerging policy BNE5 of the Local Plan Part 2, and paragraphs 17 and 112 of the NPPF (along with accompanying practice guidance).

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions. However despite such efforts, the planning objections and issues have not been satisfactorily addressed and it is considered that these matters cannot be overcome through continued dialogue, amendment to the scheme and/or conditions/obligations. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	8 th NOVEMBER 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	STEVE MOTT (ext. 5748)	DOC:
SUBJECT:	REMOVAL OF THE NEED TO COMPLY WITH CODE FOR SUSTAINABLE HOMES LEVEL 3 TO BE ACHIEVED FOR AFFORDABLE HOUSING CONTAINED WITHIN THE S106 IN RESPECT OF PLANNING PERMISSION FOR 100 DWELLINGS ON LAND AT WILLINGTON ROAD, ETWALL	REF: 9/2013/1040
WARD(S) AFFECTED:	WILLINGTON	TERMS OF REFERENCE: PO1

1.0 Recommendations

- 1.1 That the Committee authorise the removal of the need to comply with Code for Sustainable Homes Level 3 to be achieved for affordable housing. The overall level of provision would remain unchanged at 30% (30 homes).

2.0 Purpose of Report

- 2.1 To discuss the request that the affordable housing at Willington Road, Etwall, pursuant to planning permission 9/2013/1040, no longer be constructed to Level 3 of the Code for Sustainable Homes.

3.0 Detail

- 3.1 The existing Section 106 Agreement was made in early 2015 having been considered by Planning Committee on 16th September 2014 where it was resolved to grant planning permission subject to, amongst other things, the provision of 30% affordable housing. The Section 106 Agreement also requires the affordable housing to achieve Code for Sustainable Homes Level 3.
- 3.2 The applicant has advised that the Code has now been replaced with the latest standards of Buildings Regulations and that the units will not attract any grant funding from the Homes and Communities Agency (HCA) given that the units are provided through a Section 106 Agreement.
- 3.3 The Government's Code for Sustainable Buildings originally formed part of a package of measures designed to move towards zero carbon development. This has since been

withdrawn following a fundamental review of technical housing standards, with the requirements incorporated into Building Regulations. As such the more appropriate standard for the development to achieve is current Buildings Regulations and since this is already the subject of controls by other legislation, the request for non-compliance with Code for Sustainable Homes Level 3 is considered reasonable.

4.0 Financial Implications

- 4.1 Whilst a Deed of Variation is required, the applicant has given an undertaking to pay any reasonable associated legal costs for producing it, there are thus no financial implications for the Council.

5.0 Corporate Implications

- 5.1 None

6.0 Background Papers

- 6.1 File reference 9/2013/1040.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 7
DATE OF MEETING:	8th NOVEMBER 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	KIM PARKES (01283) 595982 kim.parkes@south-derbys.gov.uk	DOC:
SUBJECT:	TREE PRESERVATION ORDER 432 AT 59 JUBILEE CLOSE, MELBOURNE	REF: TPO432
WARD(S) AFFECTED:	MELBOURNE	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this Tree Preservation Order (TPO) be confirmed without modification.

2.0 Purpose of Report

2.1 To consider confirmation of this TPO.

3.0 Detail

3.1 A TPO was originally made on 10 December 2015 in respect of a Silver Birch tree at 59 Jubilee Close, Melbourne (ref: TPO421). That Order lapsed without confirmation due to matters beyond officers' control.

3.2 A further Order was made on 10 June 2016 in respect of the same tree.

3.3 The Order was originally made at the request of the Council's Planning Assistant following the submission of a notification to fell the tree.

3.4 Comments relating to the proposed Order have been received and are summarised as:

- The tree has been planted too close to the house and is now overshadowing the house and a street light.
- The tree roots will be heading towards the house, grass pavement and drains; and
- The covenants attached to 59 Jubilee Close restrict the height of vegetation to frontage land and the height of the tree conflicts with this.
- The roots cause a public hazard where they protrude above from the ground.
- Fallen leaves from the tree are a potential slip hazard.
- The tree owners will replace the tree with a more suitable species.

3.5 In response, officers have the following response:

- The tree is not considered unsuitable for its position. This Council would be agreeable to appropriate pruning works to mitigate any overshadowing issues present.
- No evidence has been provided to support the alleged damage to the house or drainage system. Such damage is also considered unlikely given the tree species concerned and its position.
- No evidence has been provided to support the presence of such a covenant, nor are there planning conditions which conflict with the retention of the tree. Therefore this cannot be considered at this point.
- The roots only slightly protrude from the ground and are not considered to be a hazard.
- It is not unreasonable to expect that the tree owners clear the fallen leaves and which will avoid this potential hazard.
- The species of the current tree is not unsuitable for its location when properly maintained.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to permanently make the tree the subject of a TPO.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve the tree.

6.0 Financial Implications

- 6.1 Notwithstanding the above representation, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and subsequently refused, and liability for a particular event or occurrence could be demonstrated.

7.0 Corporate Implications

- 7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

- 8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 10 June 2016 Tree Preservation Order
- b. 8 January 2016 - Letter from M McDade
- c. 11 July 2016 - Letter from A & M Jacques

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 8
DATE OF MEETING:	8th NOVEMBER 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	KIM PARKES (01283) 595982 kim.parkes@south-derbys.gov.uk	DOC:
SUBJECT:	TREE PRESERVATION ORDER 433 AT 33 WOODFIELD DRIVE, SWADLINCOTE	REF: TPO433
WARD(S) AFFECTED:	SWADLINCOTE	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this Tree Preservation Order (TPO) be confirmed without modification.

2.0 Purpose of Report

2.1 To consider confirmation of this TPO.

3.0 Detail

3.1 A TPO was originally made on 23 December 2015 in respect of an Ash tree at 33 Woodfield Drive, Swadlincote (ref: TPO423). That Order lapsed without confirmation due to matters beyond officers' control.

3.2 A further Order was made on 15 June 2016 in respect of the same Ash tree.

3.3 The Order was originally made at the request of the Council's Planning Assistant following a letter from the owner who felt under pressure from neighbouring property owners to carry out works to the tree.

3.4 Comments relating to the proposed Order have been received and are summarised as:

- The health of the tree is questionable and the tree owners have refused to allow access to their property for a full tree assessment to be undertaken; and
- The tree has caused damage to a boundary wall.

3.5 In response, officers have the following response:

- It is not obvious from a basic visual assessment that there are any issues with the tree that cause an imminent danger. As for access or permission to undertake works to a tree on neighbouring land, this is a civil matter which the neighbours should take separate legal advice on.
- The damage present to the boundary wall appears to be historic and has not caused the wall to become liable to imminent collapse. Should the tree be the

cause of the damage, then it should not worsen as the tree is no longer maturing. The owner of the wall should investigate other means by which they can resolve the damage to the wall.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to permanently make the tree the subject of a TPO.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve the tree.

6.0 Financial Implications

- 6.1 Notwithstanding the above representation, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and subsequently refused, and liability for a particular event or occurrence could be demonstrated.

7.0 Corporate Implications

- 7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

- 8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 15 June 2016 Tree Preservation Order
- b. 23 February 2016 - Letter from R V Pearson