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Our Ref
Your Ref

Date: 1st November 2021

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 09 November 2021 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

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

Conservative Group

Councillors Bridgen, Brown, Lemmon, Muller and Watson.

Independent Group

Councillors Angliss and Dawson.

Non-Grouped

Councillor Wheelton



AGENDA

Open to Public and Press

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 53**
- 5** SECTION 106 VARIATION - BROOMY FARM HARTSHORNE **54 - 55**

Exclusion of the Public and Press:

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

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

Section 2: Appeals

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/0164	1.1	Etwall	Etwall	6
DMPA/2021/0777	1.2	Church Gresley	Church Gresley	28
DMPA/2021/0890	1.3	Melbourne	Melbourne	41

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2021/0164](#)

Valid date: 22/02/2021

Applicant: Sarah Armstrong **Agent:** Redrow Homes Limited

Proposal: **Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on Etwall Common, Land at SK 2730 1591, East of Egginton Road and North of Jacksons Lane, Etwall Common, Derby**

Ward: Etwall

Introduction

This item was deferred from the 12 October 2021 meeting to allow for a site visit. Additional text is included in italics and deleted text is indicated as strikethrough.

Reason for committee determination

This item is presented to the Committee at the request of Councillor Brown due to local concern and unusual site circumstances. The item is also a major application which has been subject to more than 4 no. letters of objection where a recommendation to approve has been made.

Site Description

The site comprises three arable fields in an L shape formation across 8.65ha fronting Egginton Road and Jacksons Lane, Etwall. The site is generally flat with marginal changes in topography with levels falling gently from north east to south west in the most southern section of the site. The site is bound by mature hedgerows with self-seeded scattered trees within and on the field margins. Some of the trees on site are protected by Tree Preservation Orders. There is a mature tree belt south of Jacksons Lane which is also protected by a TPO then more fields and the A50 running east to west with a partial landscaped bund.

To the north west of the site are existing dwellings and allotments on Common End, Grove Park and Springfield Road, along with the Bloor Homes development to the north and north east which is accessed from Willington Road. The site is within the settlement confines of Etwall which has a range of local services and facilities, including schools, leisure centre, library, pharmacy, restaurant and post office. The site is not subject to any other statutory or non-statutory designations.

The proposal

The application seeks permission for the approval of the reserved matters of access, layout, scale, appearance and landscaping following outline permission for the residential development of up to 50 dwellings with open space, drainage and associated works. The outline permission (9/2017/1191) has been superseded by DMPA/2020/0985, a s73 application to vary condition 9 (the skylark mitigation condition) of the previous outline consent which was approved at committee. This application therefore now seeks to approve the reserved matters following the permission issued for DMPA/2020/0985. In addition, permission is sought to remove the Design Code submission from the legal agreement which sits alongside the 9/2017/1191 and DMPA/2020/0985 permissions as it has been confirmed that Redrow will be the sole developer bringing the site forward. The proposals include a mixture of 2 no. three, 34 no. four and 14 no. five bedroom houses presented in gable and hipped roof style, each with a detached garage and off-road parking. In area A, 8 houses are proposed to the corner of Egginton

Road and Jacksons Lane; in area B, 20 houses are proposed and in area C, 22 houses are proposed. The site will be accessed from Egginton Road which will lead to 4 adoptable streets from which sections of private driveway will lead to some plots. A total of 11,500sqm of public open space is proposed across the site with numerous pathways, feature planting and seating areas planned and a 400sqm Local Equipped Area for Play (LEAP). The LEAP is proposed to include 6 pieces of equipment including: an inclusive orbit roundabout; timber team swing; joined logs; net bridge; inclined twine and orangutan timber climber also with litter bin, bench seat and various grass/rubber surfacing with gates and fencing forming the enclosure to the play area, with 3 birch trees and shrub planting proposed. The external facing materials for the dwellings are stated as Ibstock Leicester Weathered Red Stock and Ibstock Arden Olde Farm House bricks and red/slate grey Forticrete Gemini roof tiles, with some dwellings featuring Weberpral M render chalk. A variety of boundary treatments are proposed including 1.8m brick screen walls, 1.8m close boarded fencing, 1.8m close board feature fencing and 2m acoustic fencing with superficial mass of 12kg/m². Retention of existing mature hedgerows is proposed. A 15m landscaped buffer is proposed to the eastern boundary with other areas of planting proposed, off and on plot, including tree lined Street 1 and various adoptable verges. To the boundaries of the site are the surface water drainage features comprising swales, ponds and ditches with a series of flow control leading to surface water outfall areas. Footpaths are also proposed throughout the site to create a circular route through and also providing footpaths up to the northern boundary with the recently erected housing site off Willington Road, to the west towards the Common Lane allotments and south onto the corner of Jacksons Lane.

Applicant's supporting information

Design and Access Statement (DAS) – The DAS states that there are a number of listed buildings within Etwall including Grade II Sir John Port Almshouses (900m from site) and Etwall Lodge (500m from site) and the Etwall Conservation Area is 650m north of the site. The applicants consider that Etwall has good communication routes including A50 to the south, M1 16 miles to the east and Willington train station 4km to the south east. Derby is 9km north east of the site and Burton-upon-Trent is 9km south west. Toyota is 500m south east of the site. The site would be served by John Port Spencer Secondary School and Etwall and Kadampa Primary Schools. Also close to the site in Etwall and beyond are a chemist, post office, supermarket, leisure centre, library, community centre, cricket club and pubs. The DAS states there is a bus stop 50m from the site on Egginton Road connecting to Burton, Derby and Willington, with Willington station providing connections to Cardiff, Nottingham and Birmingham. East Midlands Airport is 30km to the east of the site. The DAS notes there are no public rights of way within the site or abutting its boundary, however that the National Cycle Route 54 runs adjacent to the west of the site along Egginton Road. It is stated that in the event there are archaeological remains, condition 11 on the outline approval seeks a Written Scheme of Investigation for archaeology to be submitted for approval with subsequent site investigation and recordings carried out. The DAS notes the mixed terraced and detached properties in the immediate area from 17th century to post war with predominant facing materials of brick and render with slate roofs of varying density. In respect of noise from the A50, a buffer area has been proposed to the southern area of the site which includes pathways, landscaping and site drainage between the road and the housing with a bund proposed to the south west of the site to address noise. In addition, for the southern line of housing, a continuous building line is proposed to help distribute noise alongside acoustic fencing. The DAS confirms the densities across the site to be as follows: residential development 6.9ha (50 no. units); POS 1.75ha; Character Area A no more than 4 dwellings per ha; Character Area B no more than 6 dwellings per ha and Character Area C no more than 8 dwellings per ha. The DAS explains the development is formed via the character of Arcadia drawing on picturesque approach to landscape design and layout of country housing and parkland of the 18th century with landscaping and heavy tree planting the dominant feature of the character of the site rather than the houses themselves. It is not considered that a development of 50 dwellings would cause detrimental impacts on the surrounding highway network. The developer considers that the development would create: a place that assimilates well with its surroundings; a place which makes effective use of land in line with the outline planning consent; a place with its own distinctive and recognisable character whilst respecting location; a place with lasting qualities and a place which people will enjoy living in. They consider that the design of the development has been driven by a desire to produce a high-quality residential environment which pays due regard to its local context, and affords a genuine prospect of evolving as an integral component of

Etwall in years to come.

Ecological Design Strategy November 2020 – This was prepared in line with condition 3 of the outline consent which states 'The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ef:0166_SK_02F) and the design principles of sections 5 and 7 of the Design and Access Statement (ref PRO0270 version R4). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:

(i) An ecological design strategy (EDS) addressing mitigation, compensation and enhancement which shall include the following:

- details of retained habitats and suitable protection measures;
- details of newly created habitats including ponds and swales;
- identification of green corridors; and
- locations and specifications for a range of bat and bird boxes'

As hedgerows are a priority habitat within the Lowland Derbyshire Biodiversity Action Plan due to their importance to wildlife in terms of providing habitat, habitat connectivity and resources. The existing hedgerows will be largely retained and provide the basic framework for the green infrastructure at the site. It is said that excluding H2 to the west where the access will be created, all site boundary hedgerows and their associated trees will be retained. Pedestrian access will be created through hedgerows H1, H6 and H7 to create access from the development onto Jacksons Lane, to the allotments to the west and to the north linking into existing open space, though these will be small sections of hedgerow and the removal is not considered would significantly impact the connectivity of hedgerows. It is said other hedgerows will be enhanced by boundary planting to make them more substantial to provide better ecological enhancement. Within the site at hedgerow H4 and H5 breaches it is proposed that new trees will be planted either side to create a tree lined street etc. for commuting and foraging bats. Translocation studies for hedgerow 2 as per condition 10 will be discharged at a later date. Fenced root protection areas will be used around all retained hedgerows and trees to avoid damage and soil compaction. Protective fencing will be installed to create an appropriate buffer zone, in accordance with the specifications and extents within the Pre-Development Tree Survey Report and Tree Constraints Plan by Midland Tree Surgeons. The grassland margins and hedgerows will be protected as per the great crested newt and reptile method statement by FCPR 2020. To encourage birds, mammals, reptiles and amphibians, new wildflower grassland planting will be established also within the bund to the south west of the site. All wildflower planting will be subject of a grass cutting scheme and different types. To encourage great crested newts, reeds and other planting close to SUDS features are proposed, including native fauna. Log piles, insect hotels, bat and bird boxes are also proposed in various locations across the site. Green corridors are proposed throughout the site including at the extreme boundaries to encourage growth, habitats and foraging including lighting scheme.

Drainage Strategy – This explains that the disposal of surface water from new developments is to be managed to ensure that flood risk is not increased elsewhere. This development has been designed in accordance with this requirement and the hierarchy of discharge destinations as set out in the Part H Building Regulations. It is stated that the site has benefit of an existing planning permission of which conditions 18 and 19 refer to surface water drainage strategy. It goes on to say that initial infiltration testing was completed to assess the suitability of infiltration, whilst some water level reduction has occurred, none of the boreholes had fully emptied and as such it was concluded that the site would fail BRE365 testing and as such unsuitable to infiltrate to ground. To this end, the surface water drainage strategy for the site will be for the discharge of water to adjoining watercourses. It goes on to say that the site has a network of existing ditches on field boundaries and it is proposed to split the site into three networks and provide attenuated discharges at each outfall. Discharge rates are proposed to be 2.0l/s per outfall, the minimum practicable rate. It is proposed that to ensure there is a minimal risk of pollution entering existing watercourses, prior to each outfall, there shall be an open detention basin, containing a sediment forebay and bio-retention area, as well as upstream swales to provide additional treatment and attenuation. The multiple SW outfalls are also key in maintaining water flow to existing hedge lines and to encourage biodiversity, whilst also allowing the site levels to remain close to existing ground levels. The foul water system proposed is a gravity system and a new foul sewer shall connect to the existing STW FW sewer in Old Egginton Road (MH8601).

Technical note - Drainage (October 2021) – the proposed scheme has been designed to minimise pollutant risk to watercourses and to attenuate water to mitigate flood risk. The site has been split into three surface water networks, each containing a variety of SuDS features and attenuation, prior to discharge into the existing watercourses that permeate the development. Highway swales are proposed alongside the carriageway to collect, convey and treat highway run off. Highway swales will not convey water from private areas. A second swale system in the open space and private areas will convey surface water from private areas to attenuation basins on site and this system and basins will be adopted by Severn Trent Water. Highway swales will be approximately 500mm deep with side slopes (batters) approximately 1:1.5. ensuring they cannot be overrun or used for parking. Connections from highway to the swales shall be via kerb inlets and headwalls as a continuous kerb upstand is proposed to further discourage parking. The highway swales will be vegetated with low level planting. Network 3 highway water will be discharged to sewers to be adopted by Severn Trent Water. Pollution control measures for network 3 are the attenuation basin, sediment forebay and reed beds within the basin, after which a swale conveys water to the existing watercourse. Highway swales aid the overall design, the levels for foul outfall are extremely shallow as such this approach allows for shorter/more direct foul routing to remove a number of manholes and prevent conflict with the storm water system. Also avoids the need to elevate the site to accommodate standard piped drainage which would otherwise be required because the site is extremely flat. Use of highway swales is progressive strategy which complies with SuDS manual and the NPPF.

Relevant planning history

DMOT/2021/0274 - Approval of details required by condition 9 attached to ref. DMPA/2020/0985 (The variation of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works)) on – approved – July 2021

DMOT/2020/1396 - Approval of details required by condition 11 attached to ref. 9/2017/1191 DMPA/2020/0985 (outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works) on – part approved – May 2021

DMPA/2020/0985 - The removal of condition no. 9 (relating to skylark habitat compensation) of permission ref. 9/2017/1191 (relating to outline permission (all matters reserved for future approval) for residential development of up to 50 dwellings with open space, drainage and associated works) on – approved at planning committee – May 2021

9/2018/0003 - the side pruning of all species of trees covered by South Derbyshire District Council tree preservation order number 264 at – granted – 26th February 2018

9/2017/1191 – outline application (all matters reserved for future approval) for residential development for up to 50 dwellings with open space, drainage and associated works on – approved with conditions – committee – May 2019

9/2015/0759 - erection of up to 98 dwellings with associated public open space and sustainable drainage at – withdrawn – May 2016

9/2007/0300 - The siting of one 22.5 metre high monopole, 6 antennas, 2 600mm transmission dishes, 2 equipment cabins and associated development at – approved with conditions – committee – July 2007

Responses to consultations and publicity

Original consultation period

Police Force Designing Out Crime Officer – made an observation as follows – 25th March 2021 –

- Scheme mostly accords with what we wish to see from a community safety and designing out crime perspective.
- Some aspects of boundaries and housing treatment need to be improved and should not be too problematic.
- East-west pedestrian movement through Common End is problematic as it is a private cul-de-sac with probably access rights for allotment owners squeezed with shallow frontages very close to the pathway, so from a legal and design perspective doesn't look suitable for mass circulation. At best this would affect defensible space of Common End residents, at worst be a crime generator for housing and the allotments which have existing problems with nuisance and thefts.
- S106 money allocated for public open space in the area – the allotments may be seen as a public space that could benefit from that with improvements to boundary areas.
- Opposite end of proposed peripheral footpath at north eastern corner of the site connects to a similar circular route for the Bloor site but passes through an area of new tree planting with no consideration outside of the red lined area. This needs resolution with effective links with wide opening in the existing hedge for open sight lines and also negotiation of the ditch there. It would appear existing openings would be as a result of dog walkers.
- Boundaries for the properties are mostly ok for the privacy and security of individual plots but treatment around public open spaces stops short of this and additional may lead to unwanted lines of desire developing around the backs of some plots on the western edge.
- The rear gardens of plots 5 are exposed to a wide drainage ditch and public open space, this space is enclosed by a short section of fencing close to plot 5 with the remainder as hedging. Garden boundaries are 1.2m high post and rail fence and this combination is not adequate for the security of these plots. These need securing with 1.8m high fence or otherwise.
- Plots 1, 3 and 4 have a narrow strip of presumably drainage land between the site and neighbouring housing and low height post and rail fencing is not adequate for securing gardens in this context.
- Plots 9 and 17 near the drainage ditch are unsecured and enclosed to the site of the allotments leaving potential for a desire line to develop between the potential footpath to Common End and the swale in front of plots 9-11 and plots 5-8 and plots 1, 3 and 4. These portions of land need to be secured to prevent further foot access.
- Boundary hedges to frontages of properties should be low height versions as taller growing varieties (Oleaster and Portuguese Laurel) can impede security and surveillance of the site. Are these varieties suitable and what are the maintenance arrangements or is this left to the home owners?
- The provision for the side elevation of key plots is disappointing and only the Highgrove house at plot 2 has a study window looking out over the street of any relevant plots. Additional substantial windows should be provided to enable an outlook from habitable rooms in the following instances: Blenheim – to the snug/dining area of plots 5 and 50, and to the family/lounge areas of plots 33, 41, 47 and 48; Harrogate – to the left side of plots 13, 18, 27 and 40 and to the right of plot 20 (no handling is shown on site plans although from the house access points shown this seems to be the case) and Balmoral – to the lounge of plots 4, 9, 17, 24, 34, 44 and 46.

Derbyshire County Council Planning Policy – no objection April 2021- A S106 agreement has been signed on this outline permission with contributions towards primary, secondary and post 16. As such, officers have no further comment on this reserved matters application. Highways commentary from members shall be considered by the relevant department.

Landscape Officer – no objection subject to conditions – April 2021: the plant schedule for the trees and native species hedgerow to include quantities to be planted; a plan showing the exact position of each species of tree; a plan showing all the native species hedgerows to be planted (a line drawing is acceptable); a plan of sections through the attenuation basin/ponds and swales with a slope of no more than 1:5; a detailed plan of the proposed LEAP; a plan showing the specification and position of all the proposed bird and bat boxes as the submitted documents; the submitted Fence Detail plan of boundary treatments, to show access points and their frequency for hedgehogs; a 5 year Ecological and

Landscape Maintenance Plan; enhancement of biodiversity that will mitigate for the increased development of the site and use of native species planting to this end.

DCC Archaeology Officer – No objection – conditions on the outline cover approval of archaeological work which has been approved recently and the archaeological work has not yet commenced.

Environmental Health Officer – no objection.

Derbyshire Wildlife Trust Officer – no objection – the submitted scheme should provide a welcome net gain for biodiversity in line with the objectives of the National Planning Policy Framework and policy BNE3 of the South Derbyshire Local Plan. The Proposed Site Layout Proposed Site Layout Drg No 2267/03/02 Rev E and the Landscape Masterplan GL 1451 01C broadly accord with the Illustrative Masterplan 0166_SK_02F submitted with the outline application and, as such, meet the requirements of Condition 3 of the outline permission. The proposed treatment of retained hedgerows and trees which have largely been incorporated within areas of public open space/green infrastructure as required by condition 3(b) of the outline consent are welcomed. The details provided in the Ecological Design Strategy (EDS) produced by FPCR dated November 2020 which includes details of the locations and specifications of a range of bat and bird boxes as Figure 1. This satisfies the requirement of condition 3(l) of the outline permission. Conditions should be used.

County Highways Authority Officer – object to the proposals for the following reasons – May 2021 –

- Tracking looks tight - some turning heads may need to be extended to allow for refuse vehicles.
- Site layout plan lacks dimensions for footways and carriageways so we cannot approve them at this time. Dimensions are required to avoid any need to alter the layout at Section 38 stage which would then increase the likelihood of a variation of any consent.
- Footways around the rear of swales are not a good idea as the swale banks will inevitably get parked on. Also looking at the drainage strategy, the swales would need to be adopted by the Water Authority as they take more than just highway water. We would therefore have a break in the adopted highway limits which is not acceptable.
- Streets 1 and 2 need footways around both sides to allow for pedestrian access to all dwellings without using the active carriageway.
- Check visibility from all dwelling accesses. Some critical ones on inside of bends with trees in visibility area plots 47, 5, 31 and 12
- The use of isolated raised table to suppress vehicle speeds is no longer acceptable to DCC. If speeds are anticipated to be a safety issue, the horizontal layout needs to be redesigned to remove any over long straights.
- Access to Egginton Road appears to show gates on the drawing. I assume this an existing access and they will be removed
- Culverts below carriageways will require LLFA approval and possibly structural approval depending on their size.
- Surface Water catchment plan shows private water in all the swales etc so none of these will be accepted as highway drains and the Water Authority will need to take all the drainage system except the gullies and gully connections.

The Drainage Strategy document appears to state that infiltration will fail. It seems odd that they are placing a heavy reliance on swales as opposed to a piped system discharging to the retention basins. If the Water Authority are adopting everything then it will probably not be an issue – confirmation required.

Lead Local Flood Authority Officer – made observations as follows – April 2021 – the LLFA are satisfied that the proposed layout will have capacity to safely drain surface water and will await the full surface water drainage details as required at the Discharge of Conditions application stage. The LLFA will need to see evidence showing that the ditches on site have satisfactory connectivity to a mapped ordinary watercourse off-site to ensure that the site will be able to safely drain off-site and to ensure that flood risk downstream will not be increased. The proposed culverting to ditches under proposed access roads within the proposed site layout drawings will require Ordinary Watercourse Land

Drainage Consent to be applied for to the Flood Team.

Etwall Parish Council – object to the proposals for the following reasons:

- Common End and the track adjacent to the allotment gardens is also not shown on the DCC map as an adopted highway or PROW and is owned by the adjacent houses, with the allotments leased by the Parish Council. The only permitted access along Common End being access to the houses and allotments. No permitted access to the field (development site) is available.
- If a footpath to the south-eastern corner is constructed this will lead pedestrians onto Jacksons Lane where the hedges give poor visibility, leaving a footpath short of the surfaced road and will give a short dangerous non surfaced length.
- Extra mitigation required for the noise from the Freeport.
- Is a roundabout still planned for Egginton Road?
- Will the 30mph limit be extended?
- The turning head at the junction of road 2 and 3 shown on the Engineering layout is not utilised in the vehicle tracking drawing. It would appear to be the preparation for a future road to the adjacent field rather than a turning point. This is reinforced by residents recently seeing surveyors in the field.
- If the extension of the site is under consideration, the extension will be outside the current Local Plan village boundary.
- Jacksons Lane is not shown on the DCC public map as an adopted highway or PROW. Is it permitted to provide a footpath access from the estate onto Jacksons Lane?
- The site ownership red line on drawing 2267-03-E Site Layout includes the hedge between the site and the allotments. This is not consistent with the lease dated 02 07 1943 between Etwall Parish Council and the Borough of Burton upon Trent which shows the boundary as the centreline.

22 objections were received from the public raising the following comments:

- Loss of grass verge to Egginton Road will impact landscape and general rural character of the area and from tarmacking may lead to drainage issues.
- Not clear what the junction works are for the site access onto Egginton Road and there may be access issues.
- Not clear why there is the outline of a path that exits on the eastern side of Egginton Road and why it is required. This is the same for the western side of the road opposite to no. 93 and 95 Egginton Road as there is currently no footway there and is filled with spring bulbs.
- The pathway onto Jacksons Lane on a bend needs to be reconsidered as there is nowhere for people to walk to (Broomhill Cottages are a dead end), no pavement, lighting and it is not adopted or a public right of way and could therefore be dangerous and remove sections of hedgerow.
- The pathway to Common End and allotments would not be allowed due to rights of access issues.
- The plans include sections of road that just end abruptly - is the plan for further extension to this housing development?
- Greenfield/ green belt land should not be used to provide 4/5 bedroom homes as this is not what we need to build required homes for housing crisis.
- Full flooding and drainage assessments need to be carried out again (originally done in 2016/17) as in early 2021 the top corner of Jacksons Lane flooded near to where the new estate entrance would be and no tarmac was visible. The level has not been that high for 20 years and has come from the housing off Willington Road because of the gradients. The fields have also been flooded.
- Following recent Willington Road development, dramatic change in wildlife and this will impact it more.
- Current serving roads aren't safe and with children coming to the development this would be worse when they are walking to school.
- Amenities like doctors, shops and schools haven't been catered for in this new development.

- Traffic will increase dramatically as a result of the Freeport and so will noise, as such this development should be future proofed for that.
- Speed at entrance of site to Egginton Road is 50mph and could be a traffic hazard and dangerous.
- The development would result in the erosion of Etwall as a village.

Second round of consultation August 2021:

Designing Out Crime Officer – 2nd September 2021 - made an observation as follows:

- Some of previous comments have been addressed and others have not.
- Issue of connectivity from Common End to proposed development and Bloor Homes development with no indication of how legally and practically these features will be maintained to ensure safer pedestrian movement or how they will impact neighbours amenity. These are recommended for refusal.
- There is open and inadequately enclosed land to rear/side of plots 1, 3 and 4 and 9/17 which remain unresolved from previous comments.
- Access to rear of plots 6 to 8 have been improved and there is now a selection of species for house frontage ornamental hedging.

Landscape Officer – no objection subject to conditions:

- A plant schedule, for the trees and native species hedgerows, to include quantities to be planted.
- Increase fruit trees to on plot planting to rear gardens.
- The exact position of each species of trees.
- All native species hedgerows to be planted to be shown.
- The position of all proposed bird and bat boxes.
- Any boundary treatment to show hedgehog access.
- A five year Landscape and Ecological Management Plan.
- Enhancement of biodiversity that will mitigate for increase development of the site to improve native species with local biodiversity including hedgehogs, birds, bats and bees etc.

Environmental Health Officer – recommend further details of noise mitigation measures (acoustic fence and bund) are conditioned.

County Highways Authority Officer – 1st October 2021 – no objection - the Highway Authority is not entirely happy with the design and layout of roads 1 & 2 with the swales between the footway and the carriageway. However, they note the applicant has offered assurances that the swales in the highway are designed to take highway surface water only, as such, it is not considered that there is sufficient reason for recommending refusal of the proposal on highway safety grounds. The applicant should be aware that provision of swales within the adopted highway will attract a significant commuted sum and, depending on the final design/construction details of the swales and their outfalls, their inclusion may compromise the adoption of the road as public highway. Noted a number of drawings refer to the road off Road/Street 2, serving plots 37 – 40, as Street 4, on others it is Road 3. The width also varies from 4.8m to 5m. The carriageway width will need to be 5m if the road is intended for adoption. However, on some drawings it is referred to as remaining private. If the road is intended to remain private, its junction with Street 2 will need to be constructed as footway with a dropped vehicular crossover and highway limited demarked. Bin dwell areas sufficient to accommodate 2 bins per dwelling served will need to be provided on private land close to the highway for use on collection day. To address the above comments, conditions relating to no ramps/raised tables, road width (5m if intended for adoption), provision of bin collection points and surfacing of driveways should be included in any consent in the interests of highway safety. Notes relating to works within the highway, Advance Payments Code, adoption of roads and the swales are recommended.

Lead Local Flood Authority Officer – 29th September 2021 – No objection - within the proposed amended layout, there will be capacity to safely drain surface water and await the submission of the full

surface water drainage details as required at the discharge of condition stage (18 and 19). With regard to the March flooding, this can be considered when conditions 18 and 19 are dealt with.

Severn Trent Water Ltd – no objection - Foul is proposed to connect into the public sewer, which will be subject to a formal section 106 sewer connection approval. Surface water is proposed to discharge to a watercourse, which we have no comment. It is advised to discuss surface water proposals with the Lead Local Flood Authority. For the use or reuse of sewer connections either direct or indirect to the public sewerage system, the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. Suggest informative regarding public sewers.

Tree Officer - no objection

Derbyshire Wildlife Trust – 28th September 2021 - comfortable with the approach proposed to secure detailed enhancement measures as part of the later discharge of conditions process.

6 objections were received from the public raising the following comments:

- a) Footpath taken onto the top of Jacksons Lane is very dangerous as it is a single track road, not adopted, used by multiple vehicle types with no pavement. Over the years with increased dog walkers etc. using it there have been near misses of highway safety incidents particularly at the bend where people cannot see vehicles coming.
- b) Footpath through to the allotments leading people down Common End is not appropriate and there is no permission to physically connect to this.
- c) The hedgerow on Jacksons Lane should not be removed as part of the works as it is established and mature, creates a good visual and sound barrier and is home to multiple wildlife.
- d) Drainage Strategy does not take into account the March 2021 flooding on Jacksons Lane and the Severn Trent comments do not reflect this either. The FRA and Drainage Strategy needs to be amended accordingly. The drainage needs to take into account the recent Willington Road development and be updated to ensure the situation is addressed and the site and surrounding area is safe from flooding.
- e) Will a 30mph limit on Egginton Road be implemented plus a roundabout to make accessing the site safe.
- f) The turning head on roads 2 and 3 do not show a vehicle tracking drawing and instead will be used as an extension road for further housing in the field as seen by surveyors in the site which is outside the village boundary.
- g) One plan shows a footpath on the western side of Egginton Road and the other does not therefore what is actually being constructed.

Etwall Parish Council – object to the proposals for the following reasons:

- The two exits of footpath in the north west corner at Common End and the south east corner of Jacksons Lane are problematic.
- The Common End aspect is a private road with access limited to the householders on Common End and the allotments, which is an unadopted road with the owner of the field subject of the application surrendering their rights of access, as such new occupiers of the development would not have a right of access over Common End. Allotment holders are concerned over loss of security if an access point is created.
- Jacksons Lane is a private, unadopted road and the footpath to be terminated at the boundary would create an unofficial access through the current hedge and is not acceptable to householders on Jacksons Lane.
- The road layout has been amended to allow for future development of the adjacent field by the addition of two cul-de-sacs. This would appear to be preliminary work to create additional housing to that permitted in the Local Plan and increase the development to the number of houses originally requested and rejected, now over a greater area which they object to by default.

In relation to the concern raised about whether the Freeport developer is aware of this application, Goodman (who are proposing East Midlands Intermodal Park to the south of the site, forming part of the East Midlands Freeport) were notified of the application and advise that they have no comments on the principles of the proposal (given that outline permission has already been granted) or the detailed architectural information submitted. They understand that the Council is considering potential noise mitigation measures and note the following in this regard:

- The October report recommendation included a condition to secure the provision of noise mitigation measures presumably to address the existing traffic noise associated with the A50.*
- Noise mitigation measures should take account of the 'Agent of Change' principle, which is that the party introducing a new land use is responsible for managing the impact of that change. This principle is referenced in both the NPPF (paragraph 187) and the National Planning Practice Guide.*
- Under the Agent of Change principle, Redrow will be responsible for mitigating existing traffic noise associated with the construction of new homes close to the A50. Goodman will be responsible for mitigating noise associated with East Midlands Intermodal Park and any resultant mitigation measures will need to be secured as part of a future application for planning consent.*

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 - S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), 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), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (National Forest), INF9 (Open Space, Sport and Recreation)

Local Plan Part 2 – SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations – 23B Jacksons Lane, Etwall), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document
Affordable Housing SPD
S106 Agreements A Guide for Developers
Trees and Development
Cycling Strategy
Planning the Right Lighting
Strategic Housing Market Assessment 2021
Landscape Character of Derbyshire

The relevant national policy and guidance is:

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

Planning considerations

This application seeks to approve the reserved matters of access, layout, scale, appearance and landscaping following approval of outline permission. The principle of the development has therefore been established and hence the following assessment takes into account only the matters which are relevant to the conditions concerned. Taking this into account, along with the documents submitted (and supplemented/ and or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Impact of the development on overall housing mix and local character.
- Impact of the development on residential amenity.
- Impact of the development on highway safety.
- Impact of the development on biodiversity
- Impact of the development on trees, hedgerows and landscape character.
- Impact of the development on flood risk and drainage.
- Other matters.

Planning assessment

Impact of the development on overall housing mix and local character:

The most applicable policies to consider are S1, S2, S4, H1, H20 and BNE1 of the LP1 and H23B of the LP2, the Design SPD and the SHMA 2021. Between them these policies and guidance seek that new development involving housing provides a mixture of types, sizes and tenure over an appropriate layout and of good quality design that reflects the needs of the local population and architectural styles of the immediate locality.

The site is wholly located within the non-strategic housing allocation H23B of the LP2 called 'Jacksons Lane, Etwall'. The main body of text for the policy states 'The following sites are allocated for housing development as shown on the Policies Map and in the site specific maps under Policies 23A-N. The key considerations for each of the sites are:

- i) transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impacts on the existing road network.
- ii) impact on the surrounding landscape/and or townscape.
- iii) management of flood risk and drainage
- iv) impact on designated and non-designated heritage assets and settings.
- v) biodiversity impacts.
- vi) the design and layout to take account of site characteristics. '

The site specifics for Jacksons Lane are stated as:

- 'Around 50 dwellings.
- Footpaths to be included that offer access to the allotments, Part 1 allocation to north and onto Jacksons Lane. In area A and B the consideration of separated footways/cycleways.
- Consideration of future noise impact on the site.
- Character area A – no more than 4 dwellings per hectare (gross)
- Character area B – no more than 6 dwellings per hectare (gross)
- Character area C – no more than 8 dwellings per hectare (gross)
- A landscape buffer implemented along the eastern boundary of the site.
- No more than 3 dwellings on the frontage of site to Egginton Road.
- No buildings to be in the area directly south of Etwall Grove.
- An off-site affordable housing contribution to be made.'

Following the approval of the original outline 9/2017/1191 and the subsequent variation DMPA/2020/0985, condition 3 of both these permissions seek that the reserved matters development is brought forward in line with broad principles of the Design and Access Statement supporting the outline application and the Illustrative Masterplan and in respect of design, an internal layout in accordance with the 6C's design guide should be provided which meets the densities as set out in Policy H23B.

The proposed development comprises 50 dwellings which is therefore in compliance with Policy H23B. The density proposed mirrors that required and in Area A, four and five bedroom houses are proposed which considering the density requirements, are appropriate in this instance. The orientation of the outward facing development results to the south west corner having 1 no. dwelling fronting Egginton Road itself, with the remaining outwardly facing units orientated with their front elevations facing south west towards the corner of Egginton Road and Jacksons Lane or Jacksons Lane directly. This again is in compliance with H23B and will help create a more active frontage for the development, particularly

along its southern boundary. As seen from the Proposed Site Layout, a large area of public open space has been provided which includes tree planting, drainage ditches/swales and footpaths within Area A and retains an open area directly south of the attractive Etwall Grove, again as per Policy H23B. The footpaths and noise consideration elements in respect of Policy H23B will be considered in the coming sections of this report.

Following on from consideration of the development compliance with H23B non-strategic housing policy, also supporting the application are a Planning, Design and Access Statement, Site and Materials Layouts and House Type plans/elevations drawings. After review of the original submission, concern was raised at the provision of wide hipped roof detached dwellings to the Egginton Road frontage where the predominant character of the dwellings currently occupying the road are tall, gable roof, brick fronted villas with feature bay windows and gables with inset porches. In addition, there were issues with the overall layout and orientation of plots in respect of orientation to the road, provision of side windows to allow driveway surveillance of vehicles/cycles, relationship with public space and concerns over poor boundary treatments to properties where dwellings backed onto landscaping/drainage or the LEAP as per the Designing Out Crime Officer comments. These issues have now been resolved with new gable style house types proposed throughout Area A closest to the existing Egginton Road dwellings at a scale commensurate with neighbouring properties, with all dwellings and their garages facing the road/driveway/LEAP/ponds and drainage basins that they serve or front to allow for best passive surveillance to assist neighbourhood interaction and to assist with overall site safety. Where plots are proposed to back onto or be side facing to public open space or off-plot landscaping, suitable boundary treatments of screen walls or enhanced timber board fencing, rails with hedgerows/tree planting are proposed which help address some of the Designing Out Crime Officer comments. In addition to this, the garages serving the dwellings have been amended in style so that they have a roof type that mirrors the associated dwelling of a suitable height that ensures that the dwelling is the predominant feature of architectural focus on each plot and site wide to help support the proposed theme of Arcadia that Redrow propose.

In terms of external facing materials, the brick, render and roof tile types as shown on the Proposed Materials Layout Rev J are considered to be acceptable and mirror themes within the wider Etwall area alongside those used in the construction of the existing dwellings on Egginton Road, Jacksons Lane, Grove Park, Hollies Court and Common End. At this time, as details of the colours and specifications of doors, windows, porches, feature stone, shingle, hung tiles, gas/electric boxes, rainwater goods have not been provided, details of these will be attached by planning condition to any approval to ensure they are appropriate with regards to local character.

Impact of the development on residential amenity:

The most applicable policies to consider are SD1 and BNE1 of the LP1 and H23B of the LP2 and the Design Guide SPD. Policy SD1 states 'A. The Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. B. The Council will take into consideration the following: iii) the need for a strategic buffer between conflicting land uses such that they do not disadvantage each other in respect of amenity issues, such as odours, fumes, or dust and other disturbance such as noise, vibration, light or shadow flicker.' Policy H23B states there should be 'consideration of future noise impact on the site'.

In respect of the design related considerations regarding amenity, the dwellings within their plots are adequately spaced and orientated appropriately from one another so as not to cause overlooking, privacy loss, overbearing impacts or overshadowing both within the development itself and how it relates to existing neighbouring dwellings to the north and west. Private external amenity areas are of a size, orientation and positioning relative to the dwellings and garages within their plots so each will benefit from sufficient light and space provision.

The Officer Recommendation for 9/2017/1191 notes that the Noise Impact Assessment supporting that application states 'It has been identified that much of the development would not naturally achieve the internal noise criteria with windows open. Noise mitigation measures are recommended, including the internal layout of houses being designed to minimise the number of habitable rooms facing towards the A50; a further noise bund within the south-western corner of the site (adding to the existing 3m high

bund adjacent to the A50, which would have a beneficial effect on the wider local noise environment); the southern-most line of housing having a continuous building line or environment noise barrier constructed as a garden boundary; and use of double glazing with an alternative means of ventilation. It is noted that the predicted internal noise levels are not high in comparison with noise levels in many urban areas, and with these measures the development would achieve compliance with the noise level criteria given in BS8233 for the daytime and night-time periods'. No specific noise mitigation conditions for the lifetime of the development were attached at that time. H23B does seek a future noise impact consideration for the site with regards to the A50. The layout of the site would result in 5 dwellings (1 in area A and 4 in area B) orientated south towards the A50 with plots 45 and 46 having their rear boundaries facing that direction. This is shown to minimise the number of dwellings within the site orientated towards the A50. This area of the site and the southern most plots are already set well back from the A50, beyond the existing 3m bund and a field to the south of the site plus within the site boundaries, the drainage swales/ditches for the sites surface water scheme and Street 4/private driveway. This together with the provision of 1.8m brick screen walls (materials to match the associated dwelling) and 2m high acoustic fencing achieving a superficial mass of 12kg/m² are considered suitable to address noise in this area. To the south-western point, a bund area of POS is planned to the corner of Egginton Road and Jacksons Lane. Further details of the bund and acoustic fencing and their provision will be secured by condition. Accordingly, the proposed residents will have an acceptable standard of amenity. In relation to potential noise from the Freeport, this has not yet been approved so is not required to be taken into account when considering mitigation for the proposed residents of this site. *As noted by Goodman in their letter, the 'agent of change' principle will apply whereby those introducing the change to land use have to provide suitable mitigation for their proposed development. As the Freeport does not exist/no planning application has been made yet, it is not the responsibility of Redrow to provide noise mitigation for the Freeport.*

In terms of the amenity of existing residents, separation distances proposed between the new and existing housing comply with the requirements of the Design Guide SPD and there is considered to be no significant impact arising.

Impact of the development on highway safety:

The most applicable policies to consider are S1, S2, S6, BNE1, INF1 and INF2 of the LP1 and H23B of the LP2 and the Design SPD. Between them, these policies and guidance seek that new development be located within sustainable locations with access to public transport and passive methods of transport with good links to existing transport infrastructure and that any impacts if mitigatable are secured on site or through financial contribution via commuted sum to off-site projects. Within the site itself, these policies and guidance seek that suitable road networks, pedestrian, cycle and electric vehicle charging infrastructure is in place and that parking is provided at a level commensurate and to a size standard as stipulated in the Design Guide SPD.

With regard to highways considerations, condition 3 of the outline permission seeks that any reserved matters application include, so far as relevant, the following:

- '(e) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/ replacement of that guidance) and Manual for Street issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);
- (f) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- (g) if applicable, the provision of bin collection points at the adoptable highway end of private shared driveways and courtyards, sufficient in size to accommodate two bins per dwelling to which they serve;
- (h) each dwelling shall be provided with space for the parking of two vehicles for each 1, 2 and 3 bedroom dwelling or three vehicles for each 4+ bedroom dwelling, with any garages to be counted as a parking space of internal dimensions no less than 3m x 6m'.

This reserved matters also seeks approval of access, with the sole access for the development to be taken from Egginton Road. The access proposed would be dual flow, single lane and lead onto the principal 'Street 1' which sweeps through Character Area A into B, then leading off to Streets 2, 3 and 4, which themselves lead onto sections of private drives. To Streets 1, 2 and 3, there will be pedestrian

pavements either side of the vehicular road and to Street 4 partially then a crossing point to a single pavement. Private driveways will function as shared surface. In addition to this, there is a separate pedestrian pathway round most of the site to create a walking route, which is not proposed to be adopted, which will link onto Jacksons Lane to the south eastern corner, north to Wellington Road and west onto Common End near the allotments. To Streets 1, 2 and 3, adoptable grass highway verges are also proposed. In terms of parking, each dwelling is proposed to have a double or triple garage for parking and in front of this, driveways set back from the associated road/street. The application is also supported by a Refuse Strategy Layout which demonstrates which plots will have roadside pick up on adoptable highway routes and where plots are on private driveways, the bin collection points closest to the adoptable highway points. Various tracking and visibility splay drawings have also been provided.

The driveways and garages proposed in relationship to the dwelling that they will serve are proposed at a ratio and dimensional standard in compliance with the relevant policies and standards, so that off-plot parking is achieved in a manner that does not cause vehicles to be the primary focus of the site and does not compromise highway safety. A condition will be attached that seeks retention of both the driveways and garages for the parking of vehicles only in the interests of sufficient on plot parking, highway safety and character, removing PD for conversion of the garages accordingly. Policy INF2 (E) states 'Parking – Development should include appropriate car parking provision having regard to:

- c) the need to encourage travel on foot, by cycle and by public transport in preference to the private car by minimising parking provision;
- f) the need to encourage the use of low emission vehicles'.

The Design Guide SPD also encourages the provision of secure cycle storage and electric vehicle charging points on a 1 no. per dwelling basis. Secure cycle storage could take place within the plot but the proposals do not demonstrate the locations of EVC points and as such these are recommended to be secured as a prior to occupation condition to encourage use of low emission vehicles. The refuse collection area strategy appears appropriate with regards to condition 3.

In respect of the road layouts and visibility, Highways have raised concern that footways around the rear of the swales beside streets 1 and 2 is not advisable as the swale banks will get parked on and that the swales will take more than just highway water. They also advise that the use of isolated raised tables to suppress vehicle speeds is no longer an accepted method and the roads should be re-designed to avoid over long straight sections if speeds are anticipated to be an issue. The applicant has confirmed the swales will only take highway run-off (no private) and that the swales are going to be designed with a maximum grade of 1:1.5 batter and as such would be a parking deterrent. In addition, they consider that the size of the proposed properties driveways and the amount of allocated parking, coupled with the low density of the scheme, mean that it is highly unlikely that residents, or their visitors, would choose, or need to, park over the swales. The applicant has designed out the need for the raised tables and has requested for this omission to be dealt with during the Section 38 process rather than amending the submitted plans. A condition preventing the use of raised tables or ramps within the development will be included to address this issue. The use of swales is not included within the Highway Design Guide and it is therefore likely the use of swales will generate a substantial commuted sum, possibly compromising the adoption of the roads as public highway. It is considered a refusal of the application based on the inclusion of swales could not be substantiated and swales are of benefit to achieving sustainable drainage and additional soft landscaping on the site. *They also avoid the need to raise the site significantly which would otherwise be required to achieve the falls necessary for a standard piped drainage system.*

Subject to the conditions outlined, it is considered the proposed development will cause no harm to highway safety.

Impact of the development on biodiversity:

The most applicable policies to consider are S1, S2, S3, BNE3 and BNE4 of the LP1 and H23B of the LP2. Between them these policies seek that planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: internationally important sites; nationally important sites (such as SSSIs); Sites of County Importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites); Ancient woodlands, veteran trees and hedgerows and priority habitats and species will need to be supported by appropriate surveys and

assessments sufficient to allow the Authority to fully understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

The outline permission was supported by ecological surveys and these informed the conditions attached to the decision notice. Condition 3 of the outline will be used to guide a detailed Landscape and Ecological Management Plan as per condition 21. Condition 3 seeks that any reserved matters application is supported by (i) an ecological design strategy (EDS) addressing mitigation, compensation and enhancement which shall include the following:

- Details of retained habitats and suitable protection measures;
- Details of newly created habitats including ponds and swales;
- Identification of green corridors; and
- Locations and specifications for a range of bat and bird boxes.'

The application is supported by an Ecological Design Strategy which sets out the principles for the LEMP to follow at a later date including locations and details of the items listed above. Whilst the EDS has not been updated to mirror the amends to the layout sought due to design/landscape revisions following the original round of consultation, the basic principles are still the same and are considered transferrable. The Derbyshire Wildlife Trust officer has reviewed the application, including the EDS, and has no objection to this approach. It is considered that the development is in compliance with policies relating to biodiversity.

Impact of the development on trees, hedgerows and landscape character:

The most applicable policies and guidance to consider are S1, S2, S3, BNE1, BNE3, BNE4, INF1, INF2, INF7 and INF9 of the LP1, H23B and BNE7 of the LP2, the Design SPD, Trees and Development SPD and Landscape Character of Derbyshire document. The reserved matters of landscape and layout have been applied for so condition 3 of the outline consent is relevant as follows: '(a) a Locally Equipped Area for Play (LEAP) and connectivity to public open space north of the site; (b) retained hedgerows and trees shall, as far as practicable, not act as enclosures to proposed dwellinghouses and be incorporated into public spaces/green infrastructure; (c) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows.'

The application is supported by a Landscape Masterplan and a Local Equipped Area for Play (LEAP) proposal. Turning first to the LEAP, as per condition 3, it has been placed to the east of the site and covers an area of 400sqm as per the requirements in the s106 relating to the outline. The LEAP will include 6 pieces of equipment comprising: inclusive orbit, timber team swing; joined logs; net bridge; inclined twine and orangutan timber climber. The equipment will be within a timber fenced area with 1m high access and maintenance gates and also proposed are a bench and bin. The surfacing for the LEAP will comprise compact gravel surfacing, reinforced grass safety surfacing and bonded rubber mulch safety surfacing. A variety of low height shrub planting is proposed to the north eastern corner and eastern boundary of the LEAP with 3 Silver Birch trees to the western side. It is considered that both the siting of the LEAP, which will be accessed off the perimeter pathway, accessed also off Street 2, and it backing onto a 15m eastern landscape buffer, overlooked by properties proposed to the west, will be suitable in terms of connectivity, passive surveillance and maintenance. Its location will ensure a 20m buffer to protect the closest neighbours amenity whilst still allowing it to be overlooked somewhat without impacting privacy. The LEAP details will be attached by planning condition.

The private on-plot external amenity areas are considered to be of an appropriate size with respect to the size of the dwelling they will serve and in comparison to average garden sizes of dwellings in the immediate locality. In respect of the wider landscaping proposals, the revised plans are much improved including more suitable low height varieties of ornamental hedge planting to the frontages of each plot, with different species for each of the character areas. This has helped to address concerns on visibility and maintenance of plot hedgerows raised by the Designing Out Crime and Highways officers in terms of height for vehicle/pedestrian safety and passive surveillance. The on-plot tree, shrub, flower and

grass planting with different species for the differing character areas are also considered acceptable. The Public Open Space (POS) meadowland grassland and around the attenuation features, plus street trees and verges are also acceptable. The landscaping plans also include references to benches and bins throughout the POS with images/specifications provided, though only the placement of the benches are indicated without numbers to be provided and no bin locations are actually shown. Following on from the planting schedule, whilst the species and sizes are appropriate, the locations and numbers of these in each location, alongside that for benches and bins needs to be further clarified and can be executed through use of planning condition. No issue is raised as to the type of Breedon gravel path proposed for the POS pathway through the site though the Landscaping Plan and Site Layout have differing layouts for these, as such this should also be rectified in the detailed landscaping plans. Whilst the public comments have raised concern about the legalities and safety of connections through portions of hedgerow to create a pathway around the site leading north to the Willington Road development, south onto Jacksons Lane (an unadopted highway) and west to the allotments and Common Lane, this is a policy requirement as per H23B and as per condition 3 of the outline. The requirement for the pathway connections was to allow the older parts of Etwall to connect to these new developments and to create better off-road pedestrian walkways for landscape character and healthier lifestyle uptake and as such, it was included in policy and brought forward in these proposals. The pathways would go up to the boundaries of the site but not through them for the time being, allowing the potential for future connections to the wider area subject to further liaison with relevant neighbouring land owners. To this end, no issue is raised and the proposals are deemed technically Local Plan compliant. The hedgerow and tree retention, replacement and limited removal (to create accesses through to each area) is in line with previous discussions following the outline permission and attached conditions, as is the POS to the south of Etwall Grove retaining views to this property. This is in line with the Landscape Officer's comments. In regard to the Landscape Officer's other comments seeking bird and bat box positions, hedgehog holes, five year Landscape and Ecological Management Plan and biodiversity enhancement, these are already covered by the various conditions attached to the outline permission seeking the submission of further detail of these elements via discharge of condition applications and as such will not be re-attached in any approval of this application. Condition 10 of the outline permission requires a scheme of tree and hedgerow protection measures to be agreed prior to development commencing. Subject to this condition and given the distance of the proposed dwellings from the protected trees, it is considered the development will cause no harm to protected trees. It is considered that the development is in compliance with the listed policies covering trees, hedgerows and landscape character.

Impact of the development on flood risk and drainage:

The most applicable policies and guidance to consider are S1, S2, S3, SD2 and SD3 of the LP1. Also relevant is condition 3 of the outline permission which seeks for any submission of a reserved matters application to include '(d) evidence to demonstrate that the sustainable drainage system detention basin has been designed to provide sufficient capacity to drain the site in accordance with conditions 18 and 19 of this permission'. Conditions 18 and 19 cover the detail relating to the destination of surface water for the proposals and management and maintenance plans thereof. During consultation, the public and the Parish Council have raised concern that following the original outline permission, there has been recent flooding (March 2021) to Jacksons Lane which they believe may be connected with heavy rainfall and the recent Willington Road development to the north which has resulted in the field being saturated and Jacksons Lane in part being covered by water with no road surface visible. Supporting this application is a drainage technical note and Surface Water Catchment Plan. Severn Trent Water Ltd note that foul water is proposed to connect into the public sewer, which will be subject to a formal section 106 sewer connection approval. They have no comment in relation to surface water which is a matter for the LLFA. The LLFA advise that within the proposed layout, there will be capacity to safely drain surface water and they await the submission of the full surface water drainage details as required at the discharge of condition stage (for conditions 18 and 19). With regard to the March flooding, the LLFA advise this would need to be considered when conditions 18 and 19 are dealt with. Whilst recognising the concerns about recent flooding in the area, it is considered that an appropriate and acceptable surface water drainage scheme can be implemented at the site which will not cause increased flooding for neighbouring properties. The conditions on the outline are considered sufficient to secure an appropriate surface water drainage scheme for the development.

Other matters:

The applicants seek the removal of reference to the Design Code within the s106 legal agreement that sits alongside 9/2017/1191 and DMPA/2020/0985 approvals for outline permission. Within the definitions section of the agreement, the Design Code is defined as 'a framework to set out the access, appearance, landscaping, layout and scale parameters for the Site which shall then be binding on all subsequent owners'. The Design Code reference within the Third Schedule of the legal agreement states 'The Owners covenant with the Council as follows: 1. Not to submit any application for Reserved Matters Approval until such time as a Design Code for the Site is submitted to and approved in writing by the Council. 2. Not to submit an application for Reserved Matters Approval other than in accordance with the Design Code as approved in writing.'

The Officer Recommendation to committee for 9/2017/1191, states the following 'Consideration has also been given to whether a single or multiple developers would likely take this site forward, with the low density likely to discourage some of the usual housebuilders from showing an interest. The site would therefore likely encourage the Small to Medium Enterprises (SMEs), and even individuals wishing to construct their own home. A greater number of developers brings with it a greater range of design aspirations such that a mechanism would be required to ensure some 'unity' with the design of the wider site. A design code is therefore considered necessary if the site is sold to multiple developers, or marketed as individual serviced plots. This can be secured by way of a planning obligation, the trigger arising at the point of sale as opposed to at the reserved matters stage – the latter being an unreasonable requirement for multiple parties/individuals to create and coordinate this document.'

As the site is being brought forward as a single development by a single developer, it is considered that the Council's Design Guide SPD is sufficient to ensure that appropriate placemaking, architectural and landscape/layout design are provided in line with local guidance and policy without requiring a separate Design Code for the development to be approved prior to an approval of Reserved Matters. It is also considered that the applicants supporting documents outline their design rationale in sufficient detail, noting also reference to the Design and Access Statement compliance with the condition attached to the outline which seeks to ensure high quality and consistent design aspirations. To this end, it is considered that the requirement for the Design Code should be omitted from the legal agreement and therefore the Council also seek delegated authority to amend the legal agreement accordingly.

Conclusion:

As the development is in compliance with the listed policies and guidance, it is therefore recommended the reserved matters be approved, subject to conditions and a Deed of Variation to omit the Design Code requirement.

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

Recommendation

Approve subject to the following conditions:

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and County Planning Act 1990 so as to vary the original planning obligations as outlined in this report; and
- B. Subject to A, approve the application subject to the following condition(s):
 1. The development hereby permitted shall be carried out in accordance with drawings ref.: Fence details 2267/06/02 Rev A received by the Local Planning Authority on 25 January 2021; External Works Layout 2267/06 Rev G, Proposed Materials Layout 2267-07 Rev J, Street Sections 2267-13-Sections Rev C, Refuse Strategy Layout 2267 Rev E, House Type CAMBRIDGE - AS (Plots

11, 23) 2267/20 Rev E, House Type LEAMINGTON (Plots 14, 26) 2267/21 Rev A, House Type HARROGATE - AS Brick (Plot 22) 2267/22, House Type HARROGATE - AS (Plots 10,12,13,15,18,27,29,40,42) 2267/22 Rev C, House Type BALMORAL - AS (Plot 1) 2267/23 Rev E, House Type BLENHEIM AS (Plots 31,41,45,37) 2267/24 Rev C, House Type HIGHGROVE (Plot 5) 2267/25 Rev B, Triple Garage 2267/30 Rev B, Double Garage 2267/31 Rev B, House Type BLENHEIM - Area A - AS (Plots 3,47,48) 2267/33 Rev A, House Type CAMBRIDGE - OPP (Plots 16,25) 2267/34 Rev A, House Type HARROGATE - OPP (Plot 20) 2267/36 Rev A, House Type HARROGATE - OPP Brick (Plot 21) 2267/36, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BALMORAL - OPP (Plots 4,49) 2267/37 Rev A, House Type BLENHEIM - Area A - OPP (Plots 2,50) 2267/38, House Type BLENHEIM - OPP (Plots 6,8,33,35) 2267/39, House Type BALMORAL - AS (Plots 7,17,32,36) 2267/40 Rev A, House Type BALMORAL - OPP (Plots 9,19,24,28,30,34,38,39,43,44,46) 2267/41 Rev A, Engineering Layout Sheet 1 of 1 20-001_02_01 Rev F, Surface Finishes Sheet 1 of 1 20-001_02_02 Rev E, Swept Path Analysis 20-001_02_03 Rev E, SW Catchment Plan Sheet 1 of 1 20-001_02_04 Rev E, Landscape Masterplan GL1451 01 Rev G and LEAP Proposals GL1451 02 received by the Local Planning Authority on 25 August 2021 and Proposed Site Layout 2267/03/02 Rev S received by the Local Planning Authority on 30 September 2021 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. Notwithstanding the external facing materials as shown on drawing Proposed Materials Layout 2267-07 Rev J as received by the Local Planning Authority on 25 August 2021, prior to the erection of any dwelling hereby approved, the external facing materials of hung tiles, shingles and feature stone work shall be submitted to and approved in writing by the Local Planning Authority. The details shall include material, texture, colour and where appropriate, sections. The external facing materials shall be installed in accordance with the approved details.

Reason: In the visual interest of the buildings and the character of the surrounding area.

3. Prior to their incorporation in to the dwellings hereby approved, details of the colour of doors, garage doors, window frames, fascias and meter boxes shall be submitted to and approved in writing by the Local Planning Authority. The door, window frame, fascia and meter box colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the buildings and local distinctiveness.

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

Reason: In the visual interest of the buildings and local distinctiveness.

5. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

Reason: In the visual interest of the buildings and local distinctiveness.

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

Reason: In the visual interest of the buildings and local distinctiveness.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garages and parking spaces to be provided in connection with each dwelling erected shall not be used other than for the parking of vehicles except with the prior

grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety and to protect amenity and local character.

8. Prior to the first occupation of the development hereby approved, a scheme for electric vehicle charging points including locations noted on a plan and specification of wall or stand style shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include 1 no. charging point per dwelling. Charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The electric vehicle charging points shall be provided and available for first use on a prior to first occupation of the dwelling they are associated with basis and once installed, shall be maintained in good working order.

Reason: In the interests of promoting sustainable forms of transport and in the interests of pollution control and reducing and minimising emissions from vehicles.

9. Prior to the first occupation of any dwelling on site hereby approved, the Locally Equipped Area of Play (LEAP) shall be installed as per the details shown on drawing 'Play Area Proposals LEAP GL1451 02' as received by the Local Planning Authority on 25 August 2021. Once installed, the LEAP shall be retained in perpetuity and maintained in good working order for the lifetime of the development.

Reason: In the interests of promoting on-site recreation, community interaction, play and healthy lifestyles and in the interests of the landscape and overall character of the site.

10. The Landscape and Ecological Management Plan as per condition 21 attached to the Outline permission for the site shall follow on from the details provided within the Ecological Design Strategy November 2020 by FPCR as received by the Local Planning Authority on 25 January 2021 which supports this application, with the enhancements and design initiatives shown on the plan within this document updated accordingly to reflect the latest site and landscape layout.

Reason: In the interests of biodiversity and landscape character.

11. Prior to the occupation of any dwelling hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall follow the principles of soft landscaping and species shown on drawing Landscape Masterplan GL1451 01G as received by the Local Planning Authority on 25 August 2021 but shall be enhanced to show the locations, numbers and sizes of the planting to be undertaken and the hard landscaping shall follow the principles as per the afore referenced drawing and that of drawing Surface Finishes Sheet 1 of 1 20_001_02_02 Rev E, with both updated to show the corrected placement of footpaths as per the Proposed Site Layout Plan and the locations and numbers of benches and bins to be provided. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (10 years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

12. No dwelling shall be first occupied until further details of the south western bund (including dimensions) and acoustic fence in terms of noise mitigation specification and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The

acoustic fencing and bund shall be completed in accordance with the agreed details and thereafter maintained as such.

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

13. Notwithstanding the details as shown on the submitted drawings, no raised tables or ramps shall be included within the highway.

Reason: In the interests of highway safety and for the avoidance of doubt as such features are not acceptable methods of reducing vehicle speed.

14. Notwithstanding the submitted drawings, any road intended for adoption as highway maintainable at the public expense shall have a minimum carriageway width of 5m. Where a road is not intended for adoption, the extent of the highway shall be demarked and the access constructed as a dropped vehicular crossover.

Reason: In the interests of highway safety and for the avoidance of doubt.

15. Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: In the interests of highway safety to ensure suitable provision for the collection of bins.

16. No dwelling shall be first occupied until such time as its access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highway safety to ensure no loose material is carried onto the highway.

Informatives:

~~This approval is the subject of an agreement under Section 106 of the Town and Country Planning Act 1990.~~

- a. *This approval is the subject of a deed of variation to an agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.*
- b. Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- c. If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

- d. If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk

- e. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and possibly compromise the future adoption of the new estate streets.

Item No. 1.2

Ref. No. [DMPA/2021/0777](#)

Valid date: 10/09/2021

Applicant: Taylor Wimpey West Midlands **Agent:** Planning Prospects Ltd

Proposal: **Creation of engineering and enabling works including restoration, re-profiling of land and remediation with drainage infrastructure, access and associated works on Land off SK2918 7015 Church Street, Church Gresley, Swadlincote,**

Ward: Church Gresley

Reason for committee determination

There have been more than four objections received and the application is a major application.

Site Description

The site is a greenfield site which steeply slopes downwards in a southerly direction and is bounded by residential properties to the north and east of the site, with St George's Primary School to the north and the National Forest planting, Church Gresley Wood, is located to the south and west. The site was allocated under policy H3 of the Local Plan for housing and outline consent was granted under application 9/2013/0946 for the erection of up to 306 dwellings at the site in March 2015. The site is located within the settlement boundary of the Swadlincote Urban Area owing to the allocation of the site for housing within the Local Plan. The outline application remains valid and a reserved matters application has been submitted under reference DMPA/2021/0734 to assess matters of layout, sale and design for the site, this is undetermined.

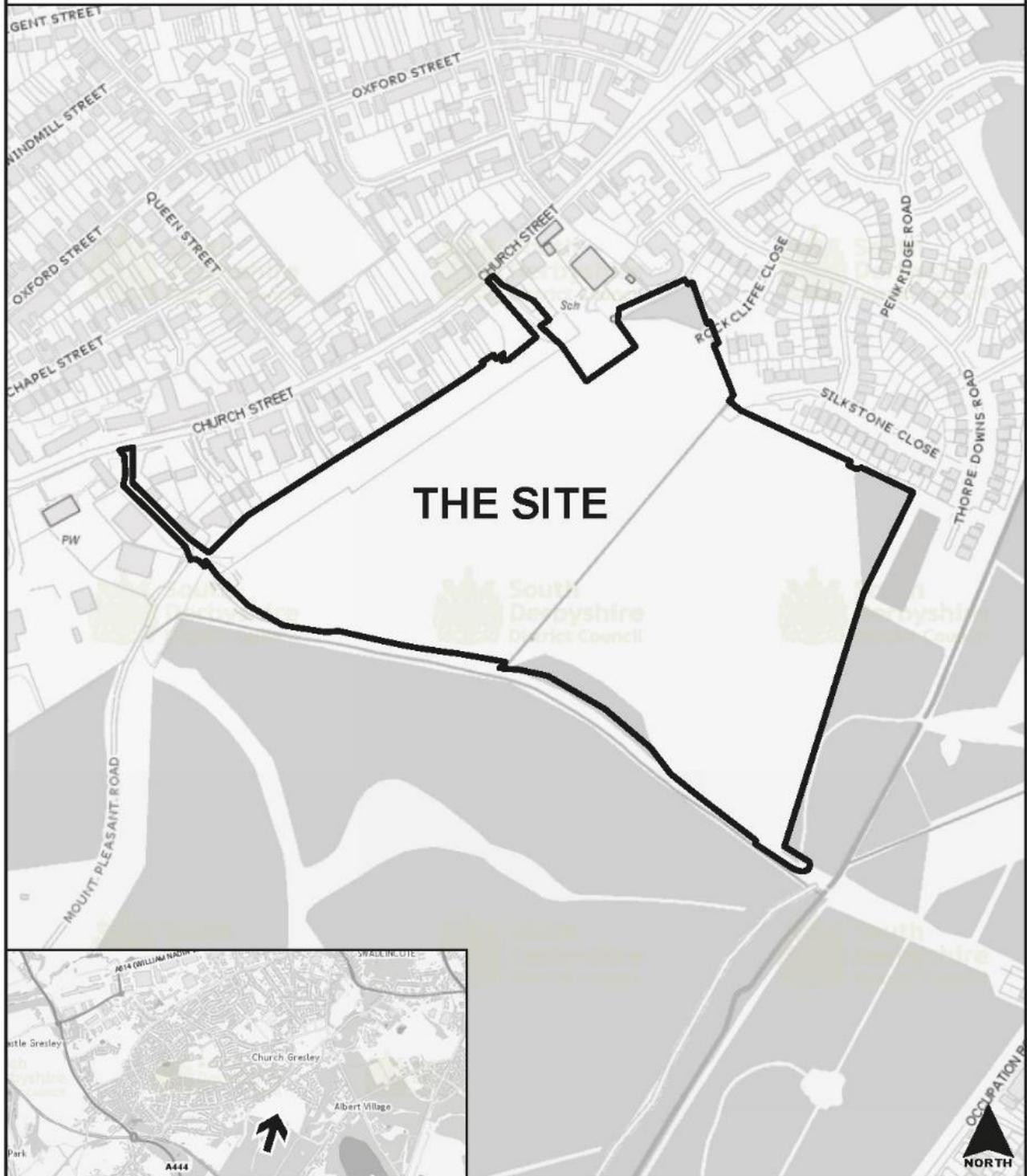
The proposal

The application is a full planning application to carry out engineering and enabling works on the site. Owing to the topography of the site and potential underground contamination, this will require significant remediation works in order to prepare the site for future development. The proposed application would allow ground works to commence on site and allow it to be prepped for when the development is fully permitted to be built out and would assist with the future delivery of the site for housing. The current application seeks consent for restoration, re-profiling and land and remediation with drainage and infrastructure with two temporary construction accesses off Rockcliffe Close and Mount Pleasant Road. As part of this application, pre-commencement conditions attached to the original outline consent (9/2013/0946) would also be assessed to ensure that the commencement of ground works on site and the proposed engineering works would not warrant undue noise pollution.

Applicant's supporting information

Planning Statement - The Site is an important residential development allocation in the District's Local Plan and in line with its allocation the Site also benefits from outline planning permission for up to 306 homes along with access, parking, public open space, landscaping and associated infrastructure. The Applicant has submitted Reserved Matters to deliver the entire residential development in a single development phase, concurrent with this application for enabling works which has been submitted as a mechanism to facilitate the accelerated remediation and initial development phase at the site so that it can deliver the approved, and allocated, residential development as soon as possible. The principle of the proposed enabling works should be very readily acceptable, subject to the technical questions raised by the application being satisfactorily addressed. A full technical assessment of the proposals is set out in the suite of drawings accompanying this application such as a Construction Management Plan setting out the ways in which potential impacts from the development phase on the environment and sensitive local receptors can be avoided or minimised. It addresses issues related to, inter alia, ecology, tree protection, noise, dust and waste recycling and disposal. It also sets out the construction

DMPA/2021/0777 - Land off SK2918 7015 Church Street, Church Gresley, Swadlincote (DE11 9FD)



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and delivery hours associated with the proposed enabling package of works. Building on survey work undertaken for the previous outline planning application and concurrent Reserved Matters application.

Similarly, ecological work has been undertaken in support of the outline planning application at the Site and concurrent Reserved Matters application. It will identify the potential impacts from the enabling works package and recommend appropriate mitigation.

Surface Water Management Plan - Reference to the Flood Risk Assessment completed for the site (Atkins report ref. 5115108, rev 3, Dated July 2013) has been reviewed and the following information taken from it: There are no main rivers flowing through or adjacent to the site. Reference to the Environment Agency's fluvial flood risk mapping indicates that the site lies entirely within Flood Zone 1. The key site-specific measures recommended to manage potential silt generated by the construction works and overland flows of surface water are summarised:

- Phasing of topsoil and vegetation stripping across the site. To reduce the potential for silt to be mobilised and/ or overland flow of surface water, RSK recommends that vegetation and top soil is only stripped from those areas where it is essential to carry out construction works.
- A 5m buffer of topsoil/vegetation to be retained along the southern and eastern site boundaries and along the hedgerow (as far as construction constraints will allow): To protect the water courses/ drains along these boundaries/ features. This should be left in situ for as long as possible or until nearby construction prevents access for its removal, at which point it can be stripped as required.
- Erection of silt fencing along the whole margins of the hedgerow. To protect against silt impacting the ditch and impacting its future drainage capacity. Fencing will also serve as a visual barrier thereby offering some further protection to the hedgerow.
- Erection of silt fencing along the site contours at intervals down the site slope (this measure is subject to regular inspections and dependant on silt generation being observed): This measure may not be required, however, is subject to site inspections/observations to confirm whether silt-laden run-off is becoming an issue during the construction works. If silt generation is identified as a problem, silt fencing or soil bunds along the boundaries where water courses are located, may also be required.
- Completion of attenuation ponds as early as practicable: Given the challenges associated with managing surface water at new developments still under construction and avoiding the build-up of silt with the new drainage network, it is recommended that the completion of the attenuation features is prioritised. This will allow the banks to vegetate early on in the process, which will bind the soils and aid their capture/retention of silt entering the SUDS features.
- Installation of silt fencing along all up-gradient banks of attenuation basins and swales. And the placement of straw bales/silt fencing across the inlets and outlets of all headwalls: Given the locations of the attenuation basins and swale at the bottom of the site, it is recommended that silt fencing is erected along the upper banks of both these features. As a further means of preventing silt from impacting the attenuation basins and swales, straw bales held in place with silt fencing should be installed at the inlet and outlet headwalls. These need to be installed tightly to prevent silt from circumventing these measures.
- Placement of stockpiled materials: This should be planned so as not to be located within close vicinity of any of the attenuation basins, the main hedgerow drainage ditch or southern site boundary where the stream runs and all the water from the site eventually discharges to.
- Placement of materials storage areas: where they can be accessed directly from a surfaced road, and placement of hard-standing or stoning up of the storage area, to prevent tracking on unsurfaced ground to access materials.
- The installation of hard standing areas to the front of all plots: to enable 'clean' forklift access.

- General good housekeeping of the site: this will help avoid general waste and debris escaping which may cause issues such as blockages at drainage points.

Construction and Environmental Management Plan – Provides a set of requirements to minimise the impact of the proposed development, such as:

Traffic Controls:

- The movement of heavy good vehicles associated with the transportation of material to and from the site shall be restricted to the hours of Monday – Friday 08:00- 20:00; Saturday ‘core hours’ will be 07:30 – 14:00. No activities will take place outside of these times, including Bank/Public Holidays unless agreed with South Derbyshire District Council. In addition, no deliveries will be undertaken during peak hours for school traffic (08:45-09:15 and 14:45-15:15). Maintenance of traffic and pedestrian routes (segregation) at all times (including, for example, provision of ramps, barriers, uniform surfaces, signage etc).

Noise: activities that are planned at the site.

- No construction works shall take place outside of the following times: • Monday – Friday 07:30 – 18:00 and Saturday 07:30 – 14:00. At any time on Sunday, bank holiday or other public holiday.
- No access into the construction site of Rockcliffe Close by construction vehicles shall take place prior to the opening of the site at 07.30 Monday-Saturday. In addition, the working hours for the plots which are near the site boundaries (and Rockcliffe Close) site staff will be able to access the site from 7:30am with the prospect of starting works at 8am in those sensitive areas.
- Drop zones and loading areas will be placed away from sensitive receptors.
- If required, local residents and business will be kept informed of when activities producing excessive noise and vibration is planned.
- Stationary plant such as generators will be located as far as possible away from the nearest sensitive receptors.
- Where generators are operated overnight, measures shall be taken to minimise noise levels impacting adjacent receptors.
- Plant will be used in accordance with the manufacturer’s recommendations.
- Appropriate screens or enclosures will be provided where practicable, around the perimeter of the site by the Principal Contractor which will reduce the noise pollution by 10dB.
- Radios will not be permitted to be used anywhere on site.
- All vehicle and plant engines will be turned off when not in use and where possible electrically powered machinery shall be used instead.
- Only plant and machinery that are in good repair and conform to the manufactures or legislative/British Standards BS 5228-2:2009 will be used.
- Care will be taken when erecting scaffolds and steelwork to avoid impact noise. All operatives undertaking such activities will be instructed on the importance of handling the scaffolding/steelwork to reduce noise to a minimum; and
- Contractors must use Best Practicable Means (BPM) to minimise the nuisance from noise and vibration; this is to include compliance with BS 5228, Noise Control on Construction and Open Sites.

Dust:

- Dampening of exposed soil and material stockpiles using sprinklers/bowsers/hoses when necessary to prevent dust and particulate matter becoming mobile.
- Stockpiles of soils and materials to be located as far as possible from sensitive receptors, taking account of prevailing wind directions and seasonal variations.
- Surface areas of stockpiles should be minimised (subject to health and safety and visual constraints regarding slope gradients and visual intrusion) to reduce area of surfaces exposed to wind pick-up.
- Material drop heights will be kept to a minimum distance.
- Where appropriate, windbreak netting/screening will be positioned around material stockpiles and vehicle loading/unloading areas.
- Visual inspection of the external site areas to check for dust deposition (evident as soiling and marking) on vegetation, cars, and other objects. Implementation of remedial measures will be carried out, if necessary, with agreement with the impacted persons.
- Operatives will use appropriately designed vehicles when handling material and design controls for the use of construction equipment and vehicles. All construction plant and equipment will be maintained in good working order.
- On-site cement and concrete batching (if required) will be undertaken in enclosed areas, with suitable water dowsing and wind shielding measures applied as appropriate.
- Dust-suppressed tools will be used for all operations; and
- No unauthorised burning of any material will be carried out anywhere on site.

Geo-Environmental Assessments - Given the significant topographical variances on the site, prior to the detailed design of suitable foundations solutions, a programme of remediation and enabling works will be required to remove the extensive buried obstructions and cut / fill the site to provide suitable development platform levels. Therefore, upon completion of these enabling works, it is likely that the most cost effective option for the majority of the site would be re-engineer the soils in the upper surface (3m) including a turn over with a tensile geogrid placed to stabilise the development platform which will then be able to uniformly support a raft foundation option. From the extensive cable percussive and rotary borehole practice completed on site it is considered that the workings targeted during the opencast mine lifetime have been worked in full across the footprint of the site and the seam underlying this has been left, intact, beneath the quarry floor. As such there is not expected to be any risk from mine collapse or instability to the future development. Although, Where a plot may span the existing high wall a fully stiffened raft designed by a structural engineer could be adopted; however, consideration on the bulb of pressure being exerted needs to be taken to ensure that the stress from the applied loadings does not induce a loading onto the top of the high wall that could induce differential settlement.

Relevant planning history

9/2013/0946 -Outline application (all matters except for principle means of vehicular access to be reserved) for the residential development up to 306 dwellings, access, parking, public open space, landscaping and associated infrastructure - Approved with conditions - 31/03/2015

DMPA/2021/0734 - Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to outline permission ref. 9/2013/0946 (relating to the residential development up to 306 dwellings, access, parking, public open space, landscaping and associated infrastructure) - Ongoing

Responses to consultations and publicity

The County Highway Authority has no objections subject to conditions. The submitted information has been assessed against conditions 23 (temporary access) and 24 (site compound details) attached to application 9/2013/0946 and considers the proposed works would accommodate suitable and safe temporary accesses to allow construction works from both Rockcliffe Close and Mount Pleasant Road. Details of a site compound have been secured with wheel washing facilities to make sure that debris is not swept onto the highway. It is considered that these details would be suitable to allow suitable site access to allow engineering works to be carried out on site and the details would be suitable to discharge the details for conditions 23 and 24 attached to application 9.2013/0946. The County Highway Authority has noted that the access along Mount Pleasant Road is not within the control of the applicant. However, the land has been included within the red line and a suitable notice has been served on the likely owner of the land and this land can therefore, be assessed as part of the application as a whole.

Peak and Northern Footpaths note that the applicant must be aware that the construction of a temporary access to the site from Mount Pleasant Drive will interfere with the safe use of both Footpaths 3 and 4 Swadlincote. Safe and convenient access for walkers along these paths must be maintained while the access is in use, with the making of temporary closure orders as necessary. Also the proposed diversion of Footpath 1 must take into account the proposed primary access off Rockcliffe Close, so that walkers have a safe and convenient crossing of this access road.

Derbyshire County Council Footpaths note that public Footpaths 1 & 2 are directly affected by the proposed work and further information is required to enable advice to be submitted. Whilst the footpaths will likely be incorporated into the reserved matters scheme and layout if the enabling works require the temporary closure of paths, this will be permitted on application to Derbyshire County Council only where the path(s) remain unaffected on completion of the development or, where a diversion is required under the provisions of the Town and Country Planning Act 1990, that the Order has been Confirmed.

Natural England have raised no objections subject to appropriate mitigation being implemented and secured to mitigate the potential impacts from surface water during the operational phase of the development.

A full Habitat Regulations Assessment has been carried out by the Planning Policy Officer (River Mease) with regard to the impact of the proposed engineering and enabling works on the integrity of the River Mease Special Area of Conservation (SAC). On the basis of this assessment that has been undertaken, it is considered that unmitigated development could potentially lead to increased surface water flows and siltation/sediment input into the SAC during the land stabilisation and other construction works and potentially during the operational phase of development. Whilst the current application does not authorise the construction of new homes and the impact of this would need to be revisited again for an Appropriate Assessment under the Habitat Regulations at reserved matters stage, the site enabling works could impact on groundwater quality. However, subject to mitigation, including the implementation of an appropriate sustainable drainage scheme and the extensive measures outlined in the Surface Water Management Plan and Construction and Environment Management Plan, it is likely that the scheme would have no adverse effects on the integrity of the river Mease alone, of which this can be controlled through the use of planning conditions to ensure that the Surface Water Management Plan and Construction and Environmental Management Plan are implemented throughout the construction period. Following this assessment, it is concluded that adequate measures are available and proposed to protect the integrity of the SAC.

Whilst the Coal Authority would normally request a Coal Mining Risk Assessment for a site within a High Risk Referral area, when considering the scale and nature of the development proposed they do not consider that a Coal Mining Risk Assessment would be proportionate in this particular instance and do not object to this planning application.

The Environmental Health Officer has raised no objections to the application based on the updated

version of the Construction and Environmental Management Plan (CEMP) and considers that this would ensure suitable noise and dust mitigation during the construction period of the development. This would also satisfy details for condition 14 (dust and noise mitigation) attached to application 9/2013/0946.

There have been no objections raised by the Derbyshire Wildlife Trust. The updated Preliminary Ecology Survey provides update ecological information which is sufficient to enable the Local Planning Authority to determine the application, of which no significant additional impacts have been identified. It is recommended that the species mitigation measures as detailed in section 5.3 of Preliminary Ecology Report should be secured by a planning condition.

There has been no objections raised by the Lead Local Flood Authority (LLFA) subject to a condition for works to be carried out in accordance with the submitted Surface Water Management Plan.

No comments have been received from Severn Trent, no foul water drainage is proposed as part of the current application.

Any comments from the Environment Agency shall be updated verbally at Planning Committee.

Any comments from the Council's Tree Officer shall be updated verbally at Planning Committee.

North West Leicestershire District Council has raised no objections to the application.

There have been nine letters of objection received raising the following points:

- a) There are 4 footpaths bounding or crossing this site. Swadlincote Footpath 1 bounds the north east boundary and the south east boundary and also crosses the extension to Rockcliffe Close. Swadlincote Footpath 4 bounds the south west boundary and Swadlincote Footpath 3 bounds part of the north west boundary. Swadlincote Footpath 2 crosses the middle of the site from north west to south east. To ensure public safety some or all these paths will have to be closed during this construction phase. Application should be made to the Rights of Way Department at Derbyshire County Council to close the necessary paths prior to construction commencing.
- b) Access to the proposed site, approximately 600 cars traveling through Thorpedowns Road, cars are already parked on the roads and footpaths, also the amount of traffic parking on Church Street also causes concern.
- c) Doctors surgery's, dentist and schools are all working to capacity.
- d) Applicant has asked for permission to use a service road off Mount Pleasant Road. Access to Church Street is congested already due to businesses already using this road. Church Street already congested with employees parking. The road also serves as residential property access, with property within a metre of the road.
- e) A public footpath goes directly through the middle of the proposed application. This gives access to recreation ground in Albert Village and walks to woodlands.
- f) Mount Pleasant Road must be unaffected by the proposed development as there are a number of businesses and houses that rely on this for access. The driveway will be significantly damaged by construction traffic, it would make more sense to use the main site access throughout the build.
- g) Lots of children use this bridleway to get to and from school - proposal puts their and many others lives at risk, this is used as a walkway through to the National Forest.
- h) Although this is supposedly a temporary arrangement, what legal procedures have been or will be put in place to ensure that the temporary nature does not become permanent once it has started being used?
- i) This lane is crossed by elderly residents on Church Street, members of the congregation of Gresley Church, workers on the industrial estate, dog walkers and visitors to the National Forest and the most vulnerable group is the school children.
- j) Due to the presumed increase in road traffic from the new build along Church Street, it appears that there would be a safer solution to allow St Georges Primary School traffic to enter at the rear of the property from the road-extension from Rockcliffe Close, this would reduce the

number of children who are at present congregating outside the school at the start and end of the day, on Church Street. On the previous plan, the road for the new build followed the Southern boundary of the school and a rear entrance would have been relatively easy to install, however with the Rockcliffe Close extension now turning South much earlier, A rear entrance would not be as easy to provide, could this be considered during the planned installation of the new road?

- k) There is in existence an access driveway and car parking area for the staff of St Georges Primary School, between house numbers 18 and 28 on church street identified on the Access Plan, can you confirm that this will remain in place following the new build please?
- l) Due to the revision of the plan for the new build, the extension road from Rockcliffe Close is now not at the boundary with the school, this has brought up a safeguarding issue for the children at the school, buildings numbered 1, 7, 8, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 52 54, 55, 56 and 78 will all now overlook the school grounds. Understands the boundary fence is to be 1.8m tall, which would allow a 1.8m person to stand in the garden and look directly into the school area, and anyone in a second-floor room would also overlook the fence into the school grounds. This is a serious safeguarding issue for the school children. Could there be a consideration for a higher fence, at least adjacent to the buildings 1 through to 24 which would allow for at least some protection for the children?

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), H3 (Land at Church Street/Bridge Street/Football Club Site, Church Gresley), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest).

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of development;
- Impact on amenity;
- Highways; and
- Surface Water Drainage and River Mease.

Planning assessment

Principle of Development

The application seeks to carry out remediation works, engineering works and ground works and install relevant infrastructure such as temporary access roads to facilitate further development over a 40 week programme. This would effectively carry out the proposed ground works in order to prepare the site for a future development of up to 306 dwellings. The submitted Geo-Environmental Assessment has shown that given the significant topographical variances on the site, prior to the detailed design of

suitable foundations solutions, a programme of remediation and enabling works will be required to remove the extensive buried obstructions and cut/fill the site to provide suitable development platform levels. This would also address a number of the pre-commencement conditions attached to application 9/2013/0946 such as potential contamination and dust and noise pollution. The site is allocated within the Local Plan as a housing allocation site under policy H3 and has outline consent approved and valid under 9/2013/0946. Whilst a suitable reserved matters scheme is being assessed, the site has a reasonable prospect of coming forward for housing in the future and the current application would assist in this delivery and would accord with policies H1, H3 and SDT1 of the Local Plan.

Given factors such as the topography of the site and the potential for underground contamination, the site will require a significant remediation programme to make the ground suitable for future development. The current application will allow this to take place in readiness for future development, subject to the outcome of the reserved matters application. The proposed development would ensure the quickened delivery of a designated housing allocation, which in turn, would assist in the long term with the Council's 5 Year Housing Land Supply (5YHLS) and would accord with the principles of policies H1, H3 and SDT1 of the Local Plan.

Impact on amenity

One of the main factors central to the determination of the application is the impact of the works on the amenity of local residents and uses abutting the site. Whilst certain levels of disruption are unavoidable, it would be necessary to mitigate the impacts as much as possible.

A full Construction and Environmental Management Plan and Traffic Management Plan has been submitted which details a mitigation strategy for the works to minimise noise pollution, dust and disruption as well as carrying over the hours of construction on site from the outline application 9/2013/0946, which limits the hours of construction adjacent to neighbouring residential properties to:

During the period of construction of any phase of development which abuts any occupied dwelling no construction works shall take place outside of the following

- Monday – Friday 07:30 – 18:00 and
- Saturday 07:30 – 14:00.
- At any time on Sunday, bank holiday or other public holiday.

Conditions have been attached to ensure that the mitigation measures outlined in the CEMP and Transport Management Plan are adhered to throughout the development and will form the basis for the working practices on site. Subject to the inclusion of these conditions, there has been no objections raised by the Council's Environmental Health Officer and it is considered that subject to full compliance with the CEMP, the proposed works would be suitable in terms of assessing contamination, noise pollution and dust and would accord with policy SD1 of the Local Plan.

Highways

The proposed development seeks to use two temporary accesses into the site; one from Rockcliffe Close which will form the main access for the future use of the site in accordance with the requirements of outline application 9/2013/0946, and a temporary access to the north east of the site from Mount Pleasant Road.

Concerns have been raised by local residents regarding the use of Mount Pleasant Road as a temporary access through the construction period and the impact that this would have on pedestrians using footpath 1 and on residents and businesses that use this as an access.

Footpaths 1 and 2 run through the site. Footpath 2 is likely to be diverted through the new estate road as part of the proposed reserved matters application, with a diversion order being processed closer to the time. Footpath 1 runs alongside Mount Pleasant Road and will need to be temporarily closed through the construction process if it cannot be safely cordoned off to allow movement of pedestrians

and other users whilst the site is worked on. Temporary closures of footpaths would be formally assessed by the County Council's Public Rights of Way Team.

It is noted within the County Highway Authority's comments that they have raised concerns regarding the ownership of the land to facilitate the proposed accesses, both temporary accesses proposed at Rockcliffe Close and Mount Pleasant Road are contained within the red line of the planning application and suitable notice has been served by the applicant, which means that both accesses can be given full consideration as part of the application. Despite the ownership of the land issue identified by the County Highway Authority, they have raised no objections to the application and the use of the proposed accesses provided that the footpaths are suitably diverted in accordance with the correct procedure or accommodated within the scheme and subject to conditions that the development is carried out in accordance with the submitted Traffic Management Plan. Therefore, the proposed development would accord with the requirements of policy INF2 of the Local Plan.

Surface Water Drainage and River Mease

Whilst the site is located within flood zone 1, it would be necessary to establish where surface water would drain to from the site during the construction period. The site is located around 4.8km from the River Mease Special Area of Conservation (SAC) and is located within the catchment area for the river, with many of the main watercourses and tributaries of the River Mease within close proximity of the site.

Extensive information has been provided by the applicant to secure the positive drainage of the site, to reduce surface water outfall from the site and provide construction phase measures to prevent silt from the construction phase entering the nearby watercourses. Any comments from the Environment Agency shall be verbally updated during the Planning Committee meeting but there have been no objections raised by the LLFA who consider that the proposed surface water drainage details provided would ensure that there would be no excessive run-off from the site. There have also been no objections from Natural England and an Appropriate Assessment has been carried out under the Habitat Regulations which concludes that there are adequate measures available and proposed to protect the integrity of the SAC. Therefore, subject to the inclusion of conditions to ensure that the development would be carried out in full compliance with the submitted Surface Water Management Plan and associated details, the proposed development would accord with policies SD3 and BNE3 of the Local Plan.

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

Recommendation

The proposed development would seek to carry out remediation works, engineering works and ground works and install relevant infrastructure to facilitate the further development of up to 306 dwellings in the future, of which the site has been allocated under policy H3 of the Local Plan and outline consent was granted under 9/2013/0946. The proposed development would ensure the quickened delivery of a designated housing allocation, which in turn, would assist in the long term with the Council's 5 Year Housing Land Supply (5YHLS) and would accord with the principles of policies H1, H3, SD1, SD3, INF2 and SDT1 of the Local Plan and the application is recommended for approval subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. LP-001 rev B Location Plan, CMP-002 rev B Access Construction Details & Plan, CMP-003 rev A Proposed & Existing Layouts, TWWM3451 TURN-VA-05, TWWM3451 SSM VA 01 and TWWM3451 SEC VA 06; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to any works commencing, the routes from Church Street to the application site i.e. Thorpe Downs Road, Rockcliffe Close and Mount Pleasant Road, shall be inspected and their condition documented by a representative of the applicant accompanied by a representative of the County Council, as Highway Authority and the applicant shall make good any damage which may occur during the period of construction in accordance with details submitted to and agreed in writing by the local Planning Authority.

Reason: In the interest of highway safety and to ensure that the highway is not damaged during the construction period.

4. Prior to any other works commencing on site, the temporary access for construction purposes off Rockcliffe Close shall be provided. The access shall be laid out and constructed in accordance with application drawings CMP-002 rev B & CMP-003 rev A and retained throughout the construction period free from any impediment to its designated use.

Reason: In the interest of highway safety and ensuring that safe and suitable access is ensured throughout the construction period.

5. Before any other operations are commenced on site, excluding construction of the temporary access referred to in Condition 4 above, the site compound and haul road shall be provided in accordance with application drawing CMP-002 rev B. The compound shall provide space for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles and parking and manoeuvring of site operatives and visitors vehicles. Once implemented, the facilities shall be retained free from any impediment to their designated use throughout the construction period.

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

6. Prior to any other works commencing on site, wheel washing facilities shall be provided in the locations indicated on application drawing CMP-002 rev B. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interest of highway safety and to ensure debris is not swept onto the road during construction phase.

7. The proposed enabling works may commence provided work proceeds in accordance with the principles outlined within:

- a. RSK Geosciences (15-Sept 2021, amended 5-Oct 21), Surface Water Management Plan for Development of Land at Church Street, Church Gresley, Swadlincote. Ref: 302379 R02 (02)
- b. Taylor Wimpey (21-08-21), Existing Culvert Concrete Protection, ref: 21872/0004
- c. Taylor Wimpey (05.10.21) Traffic Management Plan and Access Plan, CMP-001, rev-C
- d. Taylor Wimpey (07.09.21), Temporary Outfall, Dwg 21872/0005 including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.

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

8. All measures outlined in the submitted Construction, Environment Management Plan (CEMP) (Report Ref: 10-770-R5 dated July 2021) to prevent contamination and protect ground and surface waters should be adhered to in undertaking the engineering and site works proposed as part of the application unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposal does not give rise to unacceptable environmental effects, including in respect of air quality, dust, noise, waste, ground and surface water pollution or contamination.

9. All recommended species mitigation measures as detailed in section 5.3 outlined in the submitted Church Gresley, Derbyshire: Preliminary Ecological Appraisal (dated 8th June 2021) shall be incorporated and implemented in full in undertaking the engineering and site works proposed as part of the application 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 and to ensure the protection of protected species during the construction phase from undue harm.

Informatives:

- a. Activities associated with installation of the temporary outfall structure and other project elements in close proximity to ordinary watercourses may require Land Drainage Consent from the Derbyshire County Council as required under the Land Drainage Act (1991) For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.

The information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA:

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

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

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

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

E. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or

surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
 - The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.
- F. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

- b. Public Footpaths 1 and 2 must remain open, unobstructed and on their legal alignment at all times. Consideration should be given to members of the public using the routes at all times. Further information may be obtained by contacting the Rights of Way Section.

Item No. 1.3

Ref. No. [DMPA/2021/0890](#)

Valid date: 27/07/2021

Applicant: D and H Challen & Fitzgerald **Agent:** HarmerFitz Douglas Ltd

Proposal: **Conversion and extension of a former concrete water storage tank and brick pump house into a residential dwelling house with access, parking and associated works at the former Water Works, Bog Lane, Melbourne, Derby, DE73 8HU**

Ward: Melbourne

Reason for committee determination

The item is presented to Planning Committee as the proposal is contrary to the Development Plan.

Site Description

The site is located to the bottom end of Bog Lane, off The Common between Melbourne and Ticknall, and overlooking Staunton Harold Reservoir and Broadstone Holt woodland. The site comprises of a former water pump station hall and pressure balancing tank. The pump station comprises of a single storey vaulted ceiling brick hall, and the balancing tank a brick/reinforced concrete tank covered in earth and appears as a grassed mound. The pump hall and water pressure tank dates back from the early twentieth century, and over a number of years, the building tank and site have been left vacant. Vehicular and pedestrian access is from Bog Lane, with a public footpath adjacent to the site along the southern boundary. Isolated dwellings and commercial and agricultural buildings are located along the upper end of Bog Lane towards The Common, with a single dwelling immediately adjacent to northern edge of the site.

The proposal

It is proposed to convert both the pump station hall and the underground water tank to provide a single dwelling. Consent was granted in 2017 under reference 9/2017/0639 for the conversion of the building to a single dwelling, the current application is a resubmission of this with broadly the same extent of new floor space created, albeit the pump station hall would be largely retained as it exists. Application 9/2017/0639 permitted the lifting of the existing roof with glazing insert under the eaves. The proposed application seeks to retain the height of the pumping station hall, instead creating the extension works as a connecting feature between the existing pumping station hall and the underground water tank.

The majority of the top of the mound would be retained as it exists, put to grass, whilst patio areas would wrap around parts of its base. A free standing car port and store would be erected towards the southeast corner of the site.

Applicant's supporting information

Supporting Statement - This application seeks permission for the conversion of former industrial buildings into a residential development, with associated newbuild extension. The principle of development was established via an approved planning application (ref. 9/2017/0639) which although outside of policy was felt to offer the benefits of retaining and reusing an historical asset. Although proposing an alternative design approach, the scheme as submitted is of equal scale and overall massing/area and the proposal hopes to demonstrate that there is not one single acceptable design solution. The approach implemented here is predicated on the premise of keeping the pump house intact (i.e. not lifting the roof) and giving it space to breathe so that it can be read as an entity in it's own right, with the new intervention clearly defined. This results in a design concept that is legible in it's evolution.

**DMPA/2021/0890 - Former Water Works, Bog Lane, Melbourne, Derby
DE73 8HU**



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The introduction of a pitched roof extension echoes both the local vernacular and the adjacent residential property. The roof pitch of the pump house has been replicated in the extension, allowing them to have a conversation around the same language. The use of brickwork in vertical panels echoes the existing language of the pump house without trying to replicate. The use of timber cladding was established as an acceptable material choice under the 2017 approval due to the site's location within the National Forest. The proposed scheme reduces the overall built footprint by bringing the garage structure into the tank. This reduces the areas of hardstanding, minimising water run off and maximising opportunities for soft planting and increased biodiversity. The proposed scheme, although falling outside of planning policy, is comparable to the approved scheme and should be considered in the context of this.

Ecological Report Addendum - The Addendum report provides details of a survey undertaken on 3rd July 2021 to update a previous survey of the site completed in 2017. The update survey concludes that the site has not significantly changed since 2017 with the building in good condition with negligible potential for roosting bats. No evidence of bats was recorded during the survey and the building was considered to have no suitable access opportunities for roosting bats and there are unlikely to be any other protected species issues arising from the proposed development.

Relevant planning history

9/2017/0639 - Conversion and extension of a former pump hall and water pressure balancing tank to form a two-storey contemporary residential dwelling along with the erection of a detached open air car port - Approved with conditions - 09/08/2017

DMPA/0219/1128 - Conversion and extension of former pump hall and water pressure balancing tank to form a residential dwelling - Withdrawn

Responses to consultations and publicity

Derbyshire County Council Footpaths have not commented to date.

Peak and Northern Footpaths - No objection provided that the full width of Melbourne Footpath 27 remains unobstructed at all times.

The Conservation Officer notes that the building is not listed, is not located within a conservation area and not identified within the County Historic Environment Record. The building does not appear on 1925 OS mapping but does appear on 1940's mapping, before the creation of Staunton Harold Reservoir in 1964. The structures included a borehole, pumping station (the building on site today). It is likely that the building was built in the inter-war period. The submission includes some historic photographs of the site and the interior of the building including the original pumping engines, long since replaced and subsequently removed and these are of some interest in illustrating what the building was originally designed to house. Whilst the above ground building is a relatively traditional brick structure its windows have all been blocked with concrete blocks, as the equipment inside was replaced with low maintenance alternatives, the need for on site staff and windows disappeared and windows were subsequently blocked. The below ground structures and the covered reservoir are of concrete construction and less impressive than earlier brick-lined equivalents.

Previous planning permissions were granted for the extension and conversion of the former pump house to a dwelling, first back in 2017 under application 9/2017/0639 and another in late 2019 under DMPA/2019/1128 which was subsequently withdrawn. The works for the current application involve less intervention into the existing pump house building, avoiding the lifting of the roof previously proposed. Although both designs are well detailed, the current application leaves the existing structure more intact and the existing structure can be read in its original form in the finished scheme. The contemporary design of the proposed extensions is comparable to what has been approved before and would meet the standard of 'good design' consistent with the Council's Design Guide and advocated within the NPPF.

Given the design sensitivity of the site, it would be recommended in favour of withholding a wide range

of permitted development rights to avoid alterations eroding design quality or a proliferation of poor quality outbuildings on the site. Conditions should also be attached relating to facing and roofing materials and external joinery/fenestration. For a contemporary building of this kind, timber would not be suitable and a contemporary window/door detail would be more suitable.

The Environmental Health Officer has raised no objections and has assessed the application in terms of noise, air pollution and contaminated land. They do not consider that the project will cause harm or a nuisance.

Severn Trent Water have not commented to date.

The County Highway Authority has noted that the proposed development is similar to application 9/2017/0639 and does not differ significantly in highway terms. There have been no objections raised subject to conditions relating to the parking and manoeuvring space within the site and that this space must be retained for the life of the development.

Derbyshire Wildlife Trust have raised no objections subject to a planning condition for biodiversity enhancement measures to be submitted and for the approved details to be incorporated into the build. The Addendum report provides details of a survey undertaken on 3rd July 2021 to update a previous survey of the site completed in 2017. The update survey concludes that the site has not significantly changed since 2017 with the building in good condition with negligible potential for roosting bats. No evidence of bats was recorded during the survey and the building was considered to have no suitable access opportunities for roosting bats. On the basis of the submitted information it is advised that bats should not present a constraint to the proposed development and that there are unlikely to be any other protected species issues arising with the application.

There have been no comments received from the National Forest to date.

Tree Officer – No comments have been received, and any comments will be verbally reported at Planning Committee.

Melbourne Civic Society have raised no objections.

One letter has been received which raises the following points:

- a) Fully support the proposed conversion/extension project.
- b) Concerns relate only to the adverse effects drainage could have on our property and that vehicle movements/deliveries/parking could affect access served by the single track lane.
- c) The application states that storm drainage will be to soakaway, nearby field percolation tests and full scale trials showed conclusively that even the natural ground around Bog Lane is unsuitable for soakaways; the disturbed ground on the application site will be even worse.
- d) The application states that foul drainage will be to a septic tank. This would be totally inadequate as there is no viable drainage field downslope from the application site. Even the use of a mini treatment plant with effluent suitable for discharge to an open watercourse would be complicated by all the surrounding watercourses being in private ownership and there being upwards of 5 ad hoc culverts between the application site and the reservoir where all run off in the valley eventually reaches.
- e) Agreement/acceptance of both storm and foul drainage should be a pre-commencement conditions.
- f) At present there is inadequate space for vehicle movement/parking/deliveries either on the Lane or within the site, hence at present development of the site would have an extremely disruptive effect. This could be very easily addressed by temporary works to the Lane and site. We would ask that provision of same should again be included as a pre-commencement condition.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest).

Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H28 (Residential Conversions), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

The relevant national policy and guidance is:

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

Planning considerations

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

- Principle of development;
- Design and layout;
- Amenity and Highways; and
- Other.

Planning assessment

Principle of Development

The site is located outside of the settlement boundary for the Key Service Village of Melbourne and the Local Service Village of Ticknall. The site consists of an existing building and policy H28 of the Local Plan allows for the conversion of buildings to residential dwellings despite being located within the open countryside.

Outside settlement boundaries the conversion of a building to provide residential accommodation will be permitted provided the building:

- (i) is of a permanent and substantial construction and
- (ii) is suitable for conversion without extensive alteration, rebuilding and/or extension; or
- (iii) constitutes the re-use of a suitable redundant or disused building or would secure the future use of a heritage asset.

All conversions should result in the enhancement of the building's immediate setting.

Whilst the existing pumping hall building and underground storage tank are not listed buildings or located within a conservation area, it is likely they were built in the inter-war period and the proposed application presents an opportunity to retain a disused building and retain it as a non-designated heritage asset.

The pumping hall is of a brick type construction and both the pumping hall and underground water tank would be of substantial construction to facilitate conversion without excessive structural elements being

incorporated. The site is obscured from public view along the adjacent footpath by mature hedgerows and the water tank is all but obscured from view, save for a visible grass mound. The single storey pump hall building is all that is visible at the site.

The existing pumping hall building would remain largely intact with the incorporation of new openings. A large two storey extension would seek to connect the existing pumping hall building to the existing water tank structure, with the water tank structure converted to an underground garage. Given the size and scale of the proposed two storey connecting element, this would constitute excessive alterations and extensions and would not accord with part ii) of policy H28 of the Local Plan. However, given the age and historic use of the buildings, the retention for a long term alternative use at the site would present a strong material consideration to weigh against this criterion of the policy.

Policies BNE2 and BNE10 of the Local Plan require development to protect, conserve and enhance assets and their settings. It is noted that the proposed extensions to the buildings provide the necessary proportions for a suitably sized dwelling house and despite the inclusion of excessive extensions to bring the conversion about, this in combination with the high specification of the design as well as the contemporary materials palette proposed, would seek to retain the historic industrial nature of the building and provide an opportunity to improve the immediate setting of the site through the incorporation of landscaping which could be secured through planning conditions.

The proposed development would fully accord with the principles within policies H28(i), H28(iii), BNE2 and BNE10 of the Local Plan and for the reasons above, it is considered that the proposal should be supported as an exception to the normal policy approach in order to secure the long term retention of a non-designated heritage asset.

Application 9/2017/0639 was approved with conditions in 2017 for a comparable scheme at the site. The previous application involved raising the roof of the existing pumping hall station and concentrating the bulk of the alterations around the existing building. However, the current application seeks to retain the existing pumping hall building in its original form and concentrate the bulk of the proposed extensions as a connecting piece between the existing pumping house and existing underground water tank bunker. The proposed development would not be larger than the previous development approved under 9/2017/0639 and the scheme as submitted would be of equal scale and overall massing, rather the extent of the extensions and massing are concentrated in one place rather than being distributed across the building. This allows the existing form of the pumping hall station to be appreciated uninterrupted. Whilst both applications have been designed to a very high standard, the approach on the current application would seek to retain the original proportions of the pumping station hall and would be considered an improvement on the original design as approved under application 9/2017/0639.

Design and layout

The proposed development follows a contemporary approach and seeks to retain the existing pumping hall station and underground water tank structure with minimal alterations. In contrast to application 9/2017/0639, the roof of the existing pumping hall station will not be lifted and will be retained. A large two storey extension is proposed which will connect the space between the pumping hall station and the water tank mound and will sit on top of the existing mound which houses the existing underground water tank. Whilst this proposed large extension which will sit above the existing pumping hall station, this will ensure that the pumping hall station is read as existing and will not be diluted by alterations. For these reasons, the proposed alterations would be considered an improvement on the original scheme under application 9/2017/0639 owing to its honesty in the retention of the existing structures, albeit, both applications have proposed well designed schemes. The proposed material palette will incorporate materials which are industrial in appearance and will respond well to, and preserve, the industrial heritage of the site. Conditions would be attached to secure samples of the proposed materials.

The proposed water tank would be used to create a garage area and would reduce the cutting into the mound to provide window details and reveals and would assist in obscuring parked cars from the wider

area. This would also reduce the extent of built development on the site as the proposed garage is contained within the existing structure.

Overall, the proposed development would secure good design which would respond positively to the industrial heritage of the site. The sunken garage would also assist in reducing the “suburban” appearance of the site and this could be further worked on through landscaping details which reflect the site’s location within the National Forest and the removal of permitted development rights to reduce domestic paraphernalia within the site and to ensure that the high standards of design are not diluted through future development, of which these matters could be addressed through the use of planning conditions. It is considered the proposed development would accord with policies SD1, BNE1, BNE2 and BNE10 of the Local Plan and the principles within the Council’s Design Guide SPD.

Amenity and Highways

The site is located in a fairly isolated location albeit, the neighbouring dwelling Waterthorns is located abutting the northern boundary of the site. The northern elevation of the development faces the side elevation of Waterthorns and with the exception of ground floor side facing utility and office windows in the original pumping hall station element and an obscurely glazed side facing first floor window, there would be an entirely blank elevation facing onto Waterthorns. Whilst Waterthorns benefits from a side facing first floor Juliet balcony and side facing window, these windows would not be protected under the Council’s Design SPD as these would be secondary windows. The proposed development would also appear to fall outside of the 45 degree splay of the rear facing windows of Waterthorns. It is considered the proposed development would therefore, accord with the separation distances as contained within the Council’s Design SPD and policies SD1 and BNE1 of the Local Plan.

There have been no objections raised by the County Highway Authority subject to the inclusion of a condition that details of parking and manoeuvring details are secured and retained for the life of the development. The water tank has been utilised as a garage area which will provide space for vehicular parking and leaves sufficient space within the site for the manoeuvring of vehicles. Concerns have been raised by a local resident with regard to the tight nature of the site. However, it is considered that the use of the water tank structure as a garage and the necessity for parking areas to be demarcated and retained for the life of the development would ensure sufficient manoeuvrability within the site and would accord with the principles of policy INF2 of the Local Plan.

Whilst no comments have been received from Derbyshire County Council Footpaths Team, footpath 27 runs adjacent to the site and would not be affected or obstructed as part of the proposed works or development. An informative would be added to reiterate this.

Other

Concerns have been raised by a local resident with regard to the suitability of the ground for SuDs and the rate of infiltration at the site. A development of this size would not fall under the scope for assessment by the Lead Local Flood Authority (LLFA) as the development is not a major application and the site falls under flood zone 1. Whilst there has been no response received to date from Severn Trent Water, the disposal of foul and surface water drainage at the site would be assessed by Building Regulations if permission were to be granted and details of the foul and surface water drainage would be assessed in full during this process.

There have been no objections raised by Derbyshire Wildlife Trust on the basis that there was no evidence of bats recorded at the site in the updated assessment and the proposed development would be unlikely to affect any other protected species. A condition has been attached to ensure that biodiversity enhancement features are incorporated into the build and throughout the construction period.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard

has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Whilst the proposed development would include alterations of a scale which would not accord with policy H28(ii) of the Local Plan, it is considered the proposal would result in the long term retention of an undesignated heritage asset and would achieve a high level of design and would accord with the policies H28(i), H28(iii), SD1, BNE1, BNE2 and BNE10 of the Local Plan and the principles contained within the Council's Design Guide SPD and it is therefore, recommended to approve the application subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. 20004 AL (0) 001, 20004 AL 003 Rev A, 20004 AL 004, 20004 AL 005, 20004 AL 006, 20004 AL 007, 20004 AL 008; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. 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 hereby permitted shall not be enlarged, extended or altered, no satellite dishes shall be affixed thereto, and no buildings (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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 specific design quality of the proposal and effect upon neighbouring properties and/or the street scene.

4. Prior to any construction above foundations level, a scheme of biodiversity enhancement shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of integrated (inbuilt) features within the building for roosting bats and use of native species within the landscaping design. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

Reason: To protect protected species through the construction period and to ensure biodiversity gain through enhancement requirements and to comply with policy BNE3 of the Local Plan.

5. No development or other operations on the site (including demolition, ground works and vegetation clearance) shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention, growing on or adjacent to the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include details and a method statement for the creation of foundations, service runs and hard surfaces within the root protection area (RPA) and canopy of the tree on the eastern boundary. The approved protection measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical

equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first; and the development shall be constructed in accordance with the approved measures for works within the RPA and canopy of the tree.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity, recognising the potential for permanent and long term damage to such features could occur at the outset of any works on site.

6. Prior to their incorporation into the dwelling, to which this permission relates, precise details, specifications and, where necessary, samples of the facing materials to be used in the construction (and cladding) of the walls, windows and doors (including glazing type and colour) of the buildings, roofs of the buildings, and of the external face of retaining walls, etc. shall be submitted to and approved in writing by the Local Planning Authority. Any alterations to the existing roof tiles to the pump station hall shall be reclaimed and thereafter reincorporated into those roof slopes which remain. Where brick, stone or block is to be used externally, a sample panel of pointed brickwork/stonework/blockwork no less than 1 metre square shall be prepared for inspection and approval in writing by the Local Planning Authority prior to incorporation of such materials into the dwelling. Thereafter the development shall be constructed in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally, and to ensure the design quality of the dwelling is properly executed.

7. Prior to their incorporation into the development hereby approved details of the external joinery shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 of the external joinery, including horizontal and vertical sections, precise construction and method of opening. The external joinery shall be constructed in accordance with the approved drawings.

Reason: To safeguard the appearance of the existing building and the locality generally, and to ensure the design quality of the dwelling is properly executed.

8. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the dwelling unless prior to their incorporation in the building details of the type, number, position and finish of such features have been submitted to and approved in writing by the Local Planning Authority. Any such features shall be incorporated in accordance with the approved details and thereafter maintained as such.

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

9. Prior to the first occupation of the new dwelling, space shall be provided within the site curtilage for the parking and manoeuvring of vehicles, laid out generally in accordance with the application drawing, however, notwithstanding the submitted drawing, each parking space shall measure at least 2.4m x 5.5m and be provided with 6m manoeuvring space. Once provided, the parking and manoeuvring space shall be maintained throughout the lifetime of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

10. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. 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 thereafter be erected without the permission of the Local Planning Authority pursuant to an application made in that regard.

Reason: In the interests of the appearance of the area and setting of the development hereby approved.

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

Reason: In the interests of the appearance of the area and setting of the development.

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

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

Informatives:

- f. Public Footpath 27 must remain open, unobstructed and on its legal alignment at all times. Consideration should be given to members of the public using the route at all times. Further information may be obtained by contacting the Rights of Way Section.

2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Reference	Place	Ward	Outcome	Decision level
DMPA/2020/0910	7 Cavendish Close, Newhall	Midway	Dismissed	Committee



Appeal Decision

Site Visit made on 23 August 2021

by Jameson Bridgwater PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021.

Appeal Ref: APP/F1040/D/21/3275969

7 Cavendish Close, Newhall, Swadlincote DE11 0NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr R Hallberg against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2020/0910, dated 21 August 2020, was refused by notice dated 8 March 2021.
 - The development proposed is described as 'First Floor Side + Two Storey Rear Extension'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the living conditions of the occupiers of No 5 Cavendish Close (No 5), with particular regard to outlook.

Reasons

3. The appeal relates to one of 6 two-storey detached dwellings forming a small cul-de-sac fronting onto an area of open space. The property has an adjoining garage and existing single storey projection to the rear of the garage and to the northern side elevation of the dwelling. The properties follow the geometry of the road with a staggered layout.

Living conditions

4. I have some sympathy for the appellant, in that their proposed extension could potentially be acceptable in a street with a uniform linear alignment. Therefore, I have carefully considered their representations and in particular Appendix 7 of their statement that sets out the inter-relationships between the properties in Cavendish Close.
5. Based on the evidence before me and my on-site observations I consider that the proposal would significantly increase the projection at first floor level beyond the rear elevation of the neighbouring property No 5. The effect of this is magnified by the existing staggered layout of the properties in Cavendish Close. The increase in height by way of the first floor side extension and two-storey rear extension combined with the

<https://www.gov.uk/planning-inspectorate>

close proximity to the shared boundary would mean that the rear garden of No 5 would be visually dominated and enclosed by the proposal. Accordingly, the projection, length and height of the gable wall of the proposed development would appear unduly overbearing and oppressive. Therefore, the proposal would materially harm the living conditions of the occupiers of No 5 by way of loss of outlook.

6. Having reached the conclusions above the proposal would conflict with Policy SD1 of the South Derbyshire Local Plan Part 1 and Policy H27 of the South Derbyshire Local Plan Part 2 which seek amongst other things to ensure that that extensions to dwellings will not be unduly detrimental to the living conditions of adjoining properties. In reaching my conclusions I have also taken into account the South Derbyshire Design Guide - Design Supplementary Planning Document (November 2017).

Other matters

7. The appellant has drawn attention to the existing first floor side extension at No 9 Cavendish Close, however, I have limited information about its history, but due to its more modest scale at first floor its context differs to that of the scheme before me, and so it does not lead me to a different view in this case.
8. With regard to overlooking and privacy, I accept that the proposed positioning of windows would not materially increase a sense of overlooking for the occupiers of neighbouring dwellings when compared to the existing situation.

Conclusion

9. For the above reasons, and having carefully considered all other matters raised, I conclude that the appeal should be dismissed.

Jameson Bridgwater

INSPECTOR

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	9th NOVEMBER 2021	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	LUCY MITCHELL Lucy.mitchell@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION - BROOMY FARM HARTSHORNE	REF: 9/2014/0740
WARD(S) AFFECTED:	HARTSHORNE	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) and subsequent Deed of Variation (DoV) by means of a further DoV to include a standard Mortgagee in Possession (MiP) clause into the agreement and other minor amends as the Strategic Housing Team feel appropriate.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106, primarily the inclusion of a MiP clause.

3.0 Background

- 3.1 Members may recall that the site, known as Broomy Farm, Woodville Road, Hartshorne was granted planning permission in October 2015 for up to 400 homes. The original S106 agreement called for a 18% affordable housing contribution, with a tenure mix of 70% of the affordable homes provided as affordable rented homes and 30% provided as intermediate (affordable home ownership) homes.
- 3.2 To date, the developer has made significant progress in the delivery of affordable homes across the various different phases of the scheme which has contributed to alleviating housing need within the District.

4.0 Discussion

- 4.1 The Strategic Housing Team have been approached by the Affordable Housing Provider (AHP) who are in contact to purchase the affordable homes on the site. They would like to propose a variation to the formally agreed affordable housing definitions across the site by means of a DoV.

- 4.2 The proposed change would include a standard MiP clause, which means that in the unlikely instance that the AHP defaults on their loan payments or mortgage terms, their lender can take control of their affordable housing assets against which the loan is secured.
- 4.3 In such instances, the clause offers protection and allows for another AHP, including the Council, to purchase the affordable homes within a specified time period, however, in circumstances where a buyer cannot be found, the lender is free to sell the homes without the affordable housing restrictions to allow them to regain some or all of the loan provided.
- 4.4 The Council now includes the MiP as a standard clause in all S106 agreements in order to allow an AHP to borrow money to purchase the S106 affordable homes on sites. This S106 agreement pre-dates the use of this clause, and therefore these changes seek to rectify this.
- 4.5 The Strategic Housing Team would like to take the opportunity to update the S106 and DoV to be more aligned with current working practice by making other minor amends to the agreement.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the AHP.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 There would be the same number of affordable homes delivered on the site.

8.0 Background Information

- a. Section 106 Agreement: [9_2014_0740 Section 106 Agreement.pdf \(southderbyshire.gov.uk\)](#)
- b. Deed of Variations: [9_2014_0740 Section 106 Deed of Variation \(12-06-18\).pdf \(southderbyshire.gov.uk\)](#)