

# **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

## **SECTION 1: Planning Applications**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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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.

16/10/2018

Item 1.1

Ref. No. 9/2017/0893/NU

**Applicant:**  
Mr Matthew O'Brien  
C/O Agent

**Agent:**  
Mr Philip Brown  
Philip Brown Associates Ltd  
74 Park Road  
Rugby  
CV21 2QX

**Proposal:** THE CHANGE OF USE OF AGRICULTURAL LAND FOR USE AS RESIDENTIAL CARAVAN SITE FOR 6 GYPSY FAMILIES, INCLUDING THE ERECTION OF TWO AMENITY BUILDINGS, LAYING OF HARDSTANDING AND ACCESS IMPROVEMENTS ON LAND AT SK4229 2454 SHARDLOW ROAD ASTON ON TRENT DERBY

**Ward:** ASTON

**Valid Date** 14/09/2017

*Members will recall deferring a decision on this case to enable a visit to the site to take place. There have been no changes to the report.*

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

The item is presented to Committee at the request of Councillors Watson and Coyle as local concern has been expressed about a particular issue, and that the Committee should debate the issues of the case which are finely balanced.

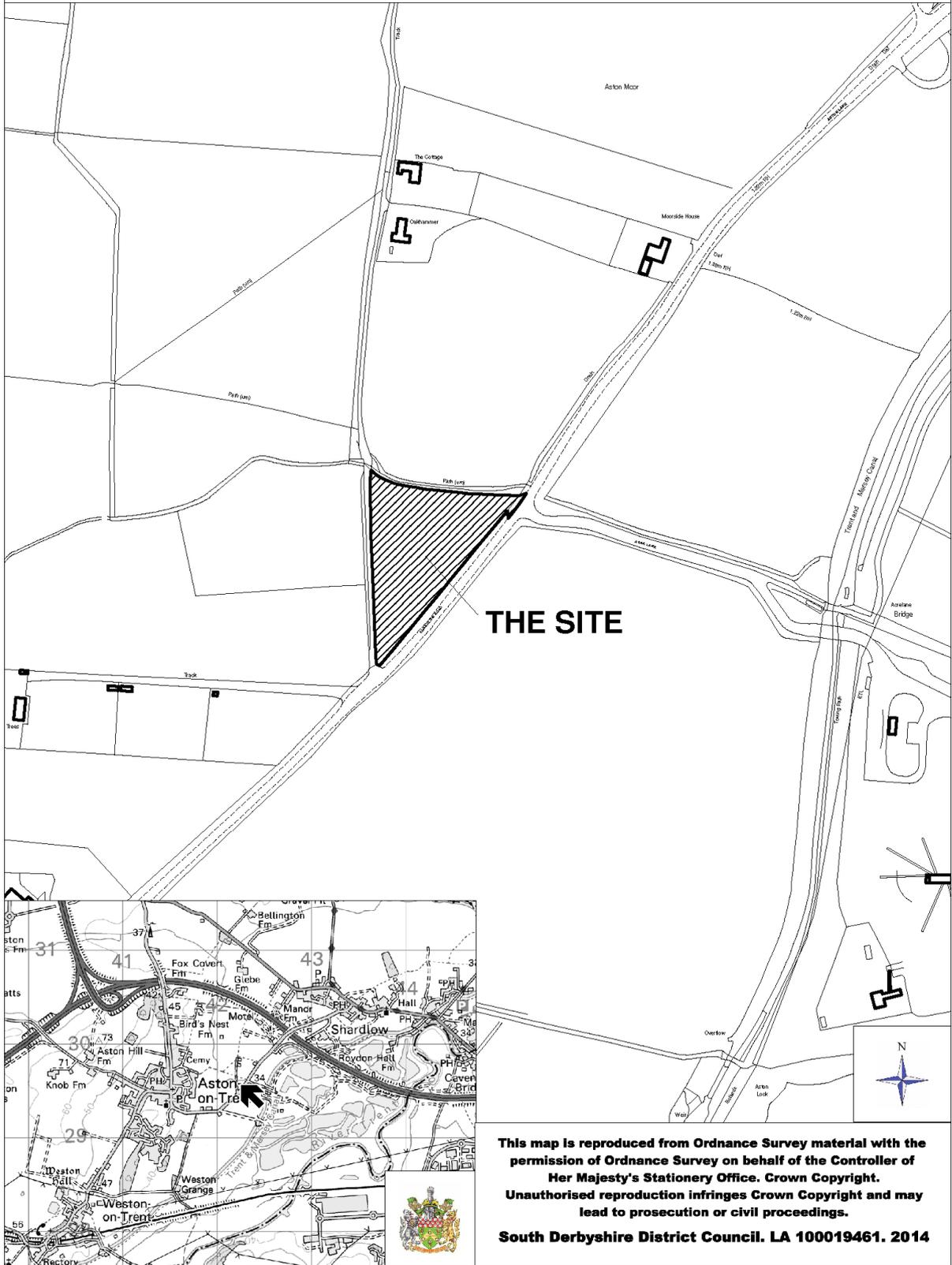
#### **Site Description**

The application site is located within the open countryside, to the east of Aston on Trent. The field the subject of this application is triangular in shape and currently in agricultural use. The field is to the western side of Shardlow Road, and this south eastern boundary of the site comprises a mature hedgerow with a number of hedgerow trees. The northern boundary is also marked by a hedgerow beyond which there is a small watercourse with another hedge and Public Right of Way beyond (Aston on Trent Footpath No 6). The eastern boundary of the site by contrast is formed by a post and wire fence. Another Public Right of Way (Aston on Trent Footpath No 8) runs along the eastern boundary of the site along an access track beyond which there is another mature hedgerow forming the adjacent field boundary.

#### **Proposal**

The application seeks permission for the change of use of land to provide 6 Gypsy pitches, and the erection of two amenity buildings. Each pitch would be able to accommodate two caravans (with no more than one static caravan per pitch) and parking for two vehicles. Vehicular access is proposed via the existing field access to the north-east of the site.

**9/2018/0893 - Land at SK4229 2454, Shardlow Road, Aston on Trent, Derby (DE72 2AN)**



**THE SITE**

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The pitches are proposed along the eastern boundary of the site behind the existing hedgerow with the site owner's pitch located along the western boundary of the site. The amenity buildings would provide kitchen, laundry and bathroom facilities in one building with shower and toilet facilities in the other. The buildings are proposed in red brick with a slate roof. The area proposed for the siting of the caravans and buildings would be surfaced in permeable stone. The remainder of the field is to be retained as a grass paddock enclosed by timber post and rail fencing.

The proposals include two areas of new landscaping in the form of tree/shrub planting, one to the south of the site access, and one to the southern corner of the site extending along the western boundary.

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

A Design & Access Statement has been submitted which describes the proposal and the layout of the site. The need for the communal building containing toilets and showers is to avoid the necessity for site residents to use toilets and showers within their caravans for cultural reasons. The site access and visibility splay provision is considered to be suitable for the site, with a vehicle turning area for refuse and emergency vehicles provided within the site.

The proposals being single storey in height are not considered to be prominently or obtrusively located, and are not considered to have an unacceptable impact upon the character or appearance of the surrounding area. The site is considered to be reasonably well screened by the roadside hedgerow and the proposals include extensive tree and shrub planting to close off views.

The site is not considered to be 'away from' an existing settlement, located 600m from Aston on Trent, and as such the site is not isolated for the purposes of the Planning Policy for Traveller Sites (PPTS) and the site is considered to be an appropriate location for a traveller site in principle. The proposal is considered to comply with the requirements of the PPTS; noting the need for sites in rural and semi-rural locations to provide soft landscaping and positively enhance the environment.

The statement goes on to consider that there is a significant unmet need for gypsy sites in South Derbyshire, and with no allocated sites the need for sites is not being met. In addition the report considers that the Council is unable to demonstrate a five year supply of deliverable land for gypsy sites and as such is reliant on the development management system to satisfy unmet need. In addition, the proposal is considered to fully comply with the requirements of policy H22 of the local plan.

A Geophysical Survey of the site has been undertaken, which concluded that despite the sites proximity to a varied and expansive landscape of historical occupation, very little of archaeological potential was detected. However, as two anomalies to the eastern part of the site were detected additional investigations are recommended.

A Speed Survey was undertaken at the site in both directions i.e. northeast bound and southwest bound. The survey was undertaken between Thursday 9 November 2017 and Wednesday 15 November and identified mean average speeds of 43.2 mph northeast bound and 45.8 mph southwest bound. The 85<sup>th</sup> percentile speeds (51.7 mph northwest and 54.6 southwest bound) demonstrates that the achievable visibility splays of 2.4m x 160m are suitable for the site access in accordance with Manual for Streets.

### **Planning History**

None relevant to the current application.

## **Responses to Consultations**

Environmental Health has no comments on the proposal.

The Environment Agency has not formally commented but refer to their standing advice.

Derbyshire County Flood Risk has no comments and refers to their standing advice.

The Highway Authority considers that the achievable visibility splays of 2.4m x 160m are suitable, and achievable given the results of the speed survey undertaken at the site. As such there is no objection to the proposal on highway safety grounds subject to conditions requiring the provision of visibility splays, the provision of on-site car parking and any gates (or other barriers) to be set back at least 15m from the highway boundary.

Derbyshire County Planning Authority (Minerals) does not wish to raise any concerns regarding the safeguarding of mineral resources.

The Derbyshire County Development Control Archaeologist notes that the site is located around 30m from the remains of the Aston cursus and other associated cropmark features. Following a geophysical survey of the site it is considered that trial trenching of the site could be adequately secured by condition and there are no objection subject to such a condition being imposed.

Historic England does not wish to offer any comments.

## **Responses to Publicity**

Aston on Trent Parish Council objects to the proposal on the following grounds:

- a) The site is not linked to the village by a footpath;
- b) The road is subject to a national speed limit, with no street lighting;
- c) The visibility splay for the site is a concern, especially with additional traffic flow from recent developments;
- d) Grazing horses require water and shade, no provision has been made for this;
- e) The development with hardstanding represents significant domestication and would be harmful to the countryside;
- f) The development would not be locally inspired and would not add value to the landscape and village character;
- g) The loss of high grade agricultural land;
- h) Concern that the land lies on a flood plain;
- i) GP services are overstretched, no buses pass the site;
- j) Specialist support for the schools will be required if the families are transient.

Shardlow Parish Council objects to the proposal for the following reasons:

- a) Increase in flooding due to run-off from the tarmac drive;
- b) Loss of agricultural land;
- c) Road safety due to gravel lorries traversing the road frequently;
- d) Increased burden on doctors and schools;
- e) Reference to the recent refusal of 9/2017/0503 as this property is next door and the proposal would set a precedent for the area.

281 objections have been received, including from SAVE (Save Aston and Weston Village Environments) raising the following concerns/points:

#### Principle

- a) The site is outside the settlement boundary.
- b) The GTAA suggests that South Derbyshire needs 14 sites between 2014-2019 6 have already been fixed, and the other 8 can be found in the time remaining this application is premature;
- c) Policy H22 requires the allocation of traveller sites, which was adopted last year to say the Council is doing nothing is wrong;
- d) Government Policy states that site should be limited in the open countryside and where possible brownfield sites should be used, which should be well planned with soft landscaping. This application meets none of these criteria;
- e) As the traveller community is changing and choosing to live in mobile homes which are near permanent buildings not envisaged by legislation this application should be judged on the same criteria as permanent houses;
- f) It would be more economic and green friendly to use an existing brown site;
- g) In the LP2 600 new dwellings have been allocated including in Aston, SDDC should consider other villages before more dwellings in Aston;
- h) The proposal does not comply with policy H22 as it would damage the character of the area and would not integrate well with the existing community;
- i) The proposal would constitute the loss of best and most versatile land;
- j) Being less than 600m from permanent dwellings contravenes policy and denotes an inappropriate site;
- k) The proposal does not promote peaceful and integrated co-existence between the site and local community given it is less than 600m distance from residential settlements;
- l) As the site is not allocated this brings in to question the purpose and validity of the plan and will undermine public trust in the planning system;
- m) This represents undesirable 'ribbon development';
- n) This is little different in principle to permanent dwellings;
- o) The site is prime agricultural land which would be lost forever;
- p) Whilst gypsy places are needed it is understood that cross/authority numbers are being achieved at Hemington (North Leicestershire) and Derby City within the radius of this site and this negates the requirement for more pitches;
- q) This business development is outside the settlement boundary;
- r) Is there a significant need for sites like this in South Derbyshire?
- s) Comments on the Governments policy for Traveller Sites;
- t) The Council can demonstrate in excess of a 5 year housing supply of housing land;
- u) The fact that the Council have approved gypsy pitches at 28% of the requirement in 30% of the time means that there has been success in approving sites;

#### Environmental

- a) Aston, Weston and Shardlow will soon be connected, not rural farming areas of individual character;
- b) The loss of fertile and versatile land would be a disaster for the local community;

- c) The caravans and community blocks would not be conducive to the look of our village;
- d) No details of the proposed planning is provided and no survey of the hedge has been undertaken;
- e) No provision has been made for waste storage or collection;
- f) Policy BNE4 states that development which impacts on local landscape should be mitigated. The proposal considers the impact from the highway but not across the fields, as a minimum suitable trees and hedges should be planted;
- g) It is vandalism to cover a green field in hardcore and brick;
- h) Concern at potential 'fly-tipping';
- i) Impact on the 'striking' view in to the centre of the village from London Road, and will be prominent from most views within Shardlow;
- j) Gross overdevelopment of a relatively small site;
- k) Impact on the village landscape and integrity linking villages;
- l) The site is on a floodplain and gets heavily waterlogged;
- m) At only 600m from housing in Aston this will impact on permanent dwellings;
- n) The nearby canal gets heavily waterlogged;
- o) The cumulative effect of this and other developments on the village environment;
- p) If the hedge to the site is maintained as on the opposite side of the road then the caravans will be visible and spoil the approach to the village;
- q) Damage to the character of the area. Both Aston and Shardlow are rural villages with conservation areas;
- r) Potential contaminated discharge in to the nearby watercourse;
- s) The site is near Witches Oak Water Nature Reserve;
- t) The site will ruin the beauty of walking in the countryside;
- u) Visual blight on the canal area;
- v) The amenity and wash block will impact on the character and openness of the area;
- w) The hardstanding would be suburban in style, and there would be significant domestication of this open land which would be harmful to the character of the area;
- x) Increase in air and noise pollution;
- y) Landscaping should be done first, allowed to grow than the application should be considered in 5 to 7 years as permanent structures;
- z) A retrospective application adjacent to the site was rejected as not being in-keeping with the rural area. The amenity block and caravans is also not in keeping with the rural area;
- aa) Concern at the impact of the proposed drainage, with insufficient details submitted;
- bb) Concern at potential noise generated by generators on-site;
- cc) No accompanying ecological reports accompany the application and the proposal has the potential to disturb habitats;

#### Highway safety

- a) Unsafe access on to narrow road;
- b) Lack of a hard surfaced public footpath linking the site to the village;
- c) Aston village centre can take no more traffic;
- d) No street lighting in the area;

- e) Caravans manoeuvring in to the site will create a hazard to other road users;
- f) Poor visibility at the site especially problematic due to the national speed limit;
- g) This will add to the extra traffic from recent permissions and the crematorium;
- h) The current bus services for Aston are inadequate;
- i) The access is in a dangerous position opposite the entrance to the quarry frequently use by heavy goods vehicles;
- j) The visibility splay is nowhere near 160m and is no more than 100m which falls below the highway requirements;
- k) Concern at children having to walk along the grass verge;
- l) Insufficient road distance to safely overtake cyclists, and recently a young mother with a double buggy was walking along the road. The Council should complete the path from Aston to Shardlow to avoid a fatality;
- m) Danger that refuse lorries would have to reverse across Shardlow Road;

#### Services

- a) Aston Primary School is already overcrowded;
- b) The Doctors is overcrowded;
- c) Impacts on the local shop;
- d) Lack of public transport facilities;
- e) General increased pressure on all services;
- f) Are the developers paying for the services to be connected to the site?
- g) Are the Council going to collect the bins?
- h) There are no street lights in the area which is a safety hazard;

#### Other

- a) There are archaeological sites in the vicinity of Aston and these need to be properly surveyed before any development takes place;
- b) The proposal is for 12 caravans not 6 as described in the application;
- c) What is there to stop 12 families residing on the site;
- d) The application is not clear whether this is for long-term residents or those who move on after a short stay;
- e) The generation of rubbish from the site;
- f) The proposal is not conducive to a middle class Derbyshire village;
- g) No discussions with the local community of Planning Authority;
- h) The toilet facilities are insufficient for 6 families;
- i) The kitchen block shows a bathroom, which should be included within the toilet block not where food is stored;
- j) Concern at personal safety;
- k) Concern at potential failure of drainage facilities;
- l) Impact on biodiversity;
- m) The site is much larger than needed for 6 caravans and amenity and it represents the first stage of a larger planned development;
- n) Impact on the value of houses in the village;
- o) Aston residents pay high taxes to live in the village, why should gypsy travellers be exempt from paying equivalent taxes and land purchase fees as per every other resident;
- p) Crime has risen in the village by 40% in the last year. If this development does ahead who will provide additional funds for 24/7 policing to ensure the safety of villagers;
- q) I hope the Council will lower council tax if this goes ahead!;

- r) Impact on standard of living and business operations;
- s) This could result in 50+ people on the site if the plans get the go-ahead;
- t) We as residents pay the Council Tax so should have a better say!;
- u) Proposing to house children so close to a hazardous environment (the quarry) would be highly irresponsible;
- v) Will this business development be subject to business tax?
- w) Will this be subject to S106 funding?
- x) This could open the gates for the Richborough and Gladman sites to appeal on the basis of equality of treatment;
- y) Concern at the impact of developing the site on the amenities of the gypsies due to the adjacent footpath;
- z) The site has the potential to end up like Dale Farm, with no police presence in the area;
- aa)The Derby Telegraph recorded an article explaining how residents supported this. This is not the case;
- bb)The land dedicated for the grazing of horses is insufficient in horse welfare terms for even one horse;
- cc)The watercourse to part of the site represents a danger to young children;
- dd)Any commercial activity on the site would be a major concern;
- ee)This would completely ruin the existing bridlepaths in the area;
- ff) Whilst the travelling community have historically made significant contributions to the area, with Shardlow developed out of the transport of goods via canal. However, the site in question is in the wrong location;
- gg)This proposal would seriously impair quiet and peaceful enjoyment of retirement for older residents;
- hh)A copy of a newspaper article detailing a stolen caravan has been submitted.
- ii) There is a danger that there could be overspill as happened Dale Farm in 2011, as this sprang up next door to a small legal one.

A letter of support has been received which states that the proposal is a great idea for communities which seem stuck in another generation and which will hopefully see new families in the village soon.

A letter has also been received from Mrs Heather Wheeler MP who objects to the proposal based on the access, the amount of parking proposed, the probable disruption in the area, and the lack of pavement all of which make this an unacceptable site.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H22 (Sites for Gypsies and Travellers and for Travelling Showpeople), SD1 (Amenity and Environmental Quality), 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).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage).

## **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (PPTS)

## **Local Guidance**

- Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2014
- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Policy considerations
- Principle of development;
- Impact on the landscape and visual amenity
- Highway safety
- Drainage and biodiversity
- Impact on neighbouring amenity; and
- Archaeology

## **Planning Assessment**

### Policy considerations

The Development Plan forms the primary policy consideration for this application, with the NPPF and PPTS being material considerations is considering the suitability of new applications for Gypsy and traveller pitches.

LP1 Policy H22 (Sites for Gypsies and Travellers and for Travelling Showpeople) identifies that the Council will set targets for new pitches according to the most recent needs assessment agreed by the Council. The policy states that allocations to meet identified needs will be made through a Site Allocations Development Plan Document (SADPD), and that sites for allocation or planning applications will be considered suitable provided they are of an appropriate scale and character and that 8 detailed criterion are met. The detailed criteria are as follows and are considered under the relevant headings of this report:

- i) development does not result in an unacceptable impact on the local environment, including biodiversity, heritage assets or conservation, the surrounding landscape (unless capable of sympathetic assimilation) and compatibility with surrounding land uses; and
- ii) safe and convenient vehicular and pedestrian access to the public highway can be provided with no undue adverse impact on the highway network; and
- iii) the movement of vehicles to and from the site will not cause undue disturbance or be inappropriate for the locality; and
- iv) there is adequate space for parking, turning and servicing on site; and
- v) the site is reasonably accessible to local services including health services, shops, education, public transport and other community facilities; and
- vi) the site is not located in an area at undue risk of flooding; and

- vii) suitable landscaping and boundary enclosures are provided to give privacy to both occupiers and local residents and minimise impact on the surrounding area; and
- viii) the site provides a safe and acceptable living environment for occupiers with regard to noise impacts, adequate on site facilities for parking, storage, water supply and electricity supply, drainage and sanitation.

The PPTS sets out the Government's planning policy for traveller sites, with the aim of ensuring fair and equal treatment for travellers, in a way that facilitates their traditional and nomadic way of life while respecting the interests of the settled community. Policy H relates specifically to determining applications for traveller sites and identifies the following issues (amongst other matters) that should be considered in determining planning applications:

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
- e) that they should determine applications for sites from any travellers and not just those with local connections.

The need to restrict new traveller sites in the open countryside away from existing settlements is acknowledged in the PPTS as is the need to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community. The PPTS goes on to identify four further matters which Local Planning Authorities should attach weight to in determining application for Gypsy and traveller sites;

- a) effective use of previously developed (brownfield), untidy or derelict land;
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

The PPTS also identifies the need to demonstrate an up-to-date 5 year supply of deliverable sites.

#### Principle of development

The need for Gypsy and traveller pitch provision; The Derby, Derbyshire, Peak National Park Authority and East Staffordshire GTAA, published in June 2015, sets out the additional need for residential pitches across the area for 2014 – 2034. For South Derbyshire this need is 38 pitches. This is the most recent accepted requirement for the delivery of sites in South Derbyshire. The GTAA identified a need within the District for 14 new pitches over the 5-year period from 1 April 2014 to 31 March 2019, with a subsequent need for 7, 8 and 9 pitches for each 5-year period thereafter up to 2034. As detailed above, policy H22 commits the Council to allocating new sites to meet this identified need through a SADPD; this has not yet been prepared. Until a SADPD is adopted, the need for Gypsy and traveller pitches must be met through individual applications.

Since 1 April 2014, 14 pitches have been granted permission, which demonstrates that the need for additional pitches is being met and delivered to accord with the requirements of the GTAA. However, notwithstanding the fact that the Council is delivering the necessary pitches, there is also the requirement for the Council to identify a supply of specific sites sufficient to provide a rolling 5 years' worth of sites against the GTAA targets, as required by the PPTS. The current 5 year supply requirement lies at 8.4 pitches based on the need identified within the GTAA for the period 2018-2023. Despite the recent permissions to meet the need between 2014 and 2019, the Council is not currently in a position to demonstrate a sufficient supply of specific sites to meet the need identified within the GTAA i.e. those sites with permission (as no sites are allocated) that have not been implemented. Without a SADPD, providing a 5 year supply of sites will remain a challenge as sites do not generally remain unimplemented. The PPTS confirms that the lack of an up-to-date five year supply of sites is a significant material consideration in favour of new applications.

**Specific needs of the applicant:** The application is not advanced with any specific needs or personal circumstances of the applicant to weigh in the balance of the development proposal.

**Sustainability of the site:** This site is located approximately 600m from the village of Aston on Trent, which is identified with the LP1 as one of the Districts Key Service Villages (KSV) where there are a range of local facilities available. The proximity of the site (within walking distance) to Aston on Trent is such that the site is not isolated away from an existing settlement. It is noted that the development as proposed i.e. if the site is enclosed with the only pedestrian entrance being at the same point as the vehicular access that there is no pedestrian access to site as the public footpath from Aston along Shardlow Road ends before the site. In order that pedestrian access can be achieved from the site on to the adjacent public footpath network and local services a condition requiring the provision of a pedestrian gate on to this footpath is considered necessary and in the interests of the sustainability of the site.

The scale of development proposed falls below that which would normally demand financial contributions to offset increased pressures arising from the proposal and there is no evidence that existing services could not cope with the additional demands placed upon them.

**Balance with the settled community:** It is noted that the site would extend the Gypsy community in the District, however, the majority of established sites and recent permissions are located generally to the south and west of the District on established sites. In this instance the provision of 6 pitches (or families) would represent a very small increase in the overall number of families in the area. In this vein, it is not considered that the settled community would be overwhelmed by the proposal given the scale of the Aston and Shardlow communities.

Subject to there being a need identified, policy H22 considers new sites to be suitable providing they of an appropriate scale and character and the 8 criteria outlined above are met (these matters are considered in detail below). The PPTS identifies that decisions should be based on locally specific criteria (i.e. policy H22), and whilst the proposal is not for the redevelopment of brownfield land, the site is not considered to be isolated, or of such a scale so as to dominate area and as such these matters weigh in favour of the proposal subject to the considerations below.

#### Impact on the landscape and visual amenity

The site is located within the national 'Trent Valley Washlands' character area, and the local 'Lowland Village Farmlands' character area. These character areas are described as gently

rolling, almost flat, lowland with river terraces, containing mixed farming with arable cropping and improved pasture, medium to large regular fields with thorn hedgerows, and discrete red brick villages with farms and cottages. It is considered that these character areas are reasonably accurate in describing the landscape character of the application site. It is acknowledged that the site does not exhibit the qualities that would deem it to be a 'valued' landscape, nor is it subject to any local landscape designations.

Policies S1, BNE1, BNE4, H22 and BNE5 all have relevance to consideration of the landscape and visual impact of the proposed development. These policies seek to ensure that that District's heritage assets, landscape and rural character are protected, conserved and enhanced through careful design and the sensitive implementation of new development.

The site is flat in a generally flat landscape with hedgerows forming the eastern and northern boundaries. There is also a mature hedgerow to the west of the PROW which runs along the western boundary. These hedgerows (with intermittent trees) visually enclose the site from its surroundings, and restrict view of the site to those in close proximity. The character of the surrounding area is such that it has a medium to low landscape value with little characteristics that would warrant its special protection. The main views of the site being those of residents, vehicular travellers and recreational users of the PROW close and adjacent to the site. There are no long distance or significant views of the site, with the Aston and Shardlow Conservation Areas sufficiently separated from the site not to be impacted upon.

Within this flat landscape there are few long distance views with the existing quarry and its associated structures to the east of the site (the vehicular access being opposite that of the site) dominating the local skyline which has a negative impact on the local landscape.

The key physical impacts of the development arise from the use of the site, the provision of hardstanding, the construction of the access, two amenity buildings, and the caravans themselves. Due to the depth of the grass verge to Shardlow Road suitable visibility splays can be achieved without any loss of the hedgerow, and this mature boundary would remain in place. The proposal overall would not result in the loss of any features that contribute to the value of the site itself, and with the addition of new landscaping proposed on the current bare boundary (to the west) this addition to the landscape would result in some beneficial effect on the landscape once the development is in place and the new landscaping matures.

Whilst there are a number of dwellings with potential views of the site, the site is generally screened by intervening landscaping such that there would be no significant impact on nearby dwellings directly. There would also be a slight adverse effect on road users from a glimpsed view of the site during the winter months and across the site access. However these impacts are not considered to be significant.

Whilst the addition of new buildings and caravans on the site could result in incongruous additions to the landscape, given the modest scale of the site, caravans and buildings are not considered to lead to an unacceptable impact on the landscape or the character of the area given the limited existing visibility of the site and the mitigation measures proposed such that the landscape is considered to be capable of accommodating the proposed development without any significant adverse impacts on the landscape.

The only significant landscape and visual effect arising would be from users of the adjacent footpath, especially in the short term due to this boundary being open. However, these effects would be mitigated against and removed as the proposed areas of landscaping mature. The openness of the area to the north west of the site would provide views of the caravans across the open paddock and an extension to the proposed landscape planting

along this western boundary is considered appropriate in order to provide an additional natural screen of the caravans and buildings proposed.

Whilst finely balanced, the proposed development is not considered to result in such a significant impact on the character of the local and surrounding landscape. The only major visual effects that have been identified are from close viewpoints on the adjacent public footpath and only over a short distance, but these effects will reduce as the proposed screening landscape treatment begins to mature. As such the proposed development is considered to comply with the visual and landscape considerations of policies S1, BNE1, BNE4, BNE5 and H22.

### Highway safety

Vehicular access to the site is proposed via an existing field access to the north eastern corner of the site which would be modified to provide a 5m wide access in to the site. This part of Shardlow Road was the subject of a speed survey undertaken over a week in November 2017, the survey identified that the 85<sup>th</sup> percentile speeds at the site access were lower than the 60mph speed limit such that the Highway Authority are content that the 2.4m x 160m visibility splays achievable in both directions are sufficient to provide safe access and egress to the site. A comment received during the consultation period raised a concern that roadworks were occurring during the survey. The Highway Authority is content that the survey results did not show large numbers of vehicles travelling slow in convoy at any particular time and that the 85<sup>th</sup> percentile speeds are what the Highway Authority would expect to see for this stretch of road; the speed survey data does not show anything which would cause concern.

Sufficient space is proposed within the site to ensure adequate parking and turning space is available to allow vehicles to leave the site in a forward gear. Vehicle movements generated by the proposal are unlikely to have a negative impact on the capacity of the wider highway network. It is noted that the Highway Authority raise no objection to the proposal. As such it is considered that the proposal would not adversely impact on highway safety to a point where which would reasonably justify refusal of the application. As such the proposal complies with the requirement of criterion ii, iii and iv of policy H22, and the requirements of policy INF2.

### Drainage and biodiversity

The application site is located in Flood Zone 1, and as such the site is not at risk from flooding. The submitted forms state that proposal would include the provision of a package treatment plant for foul water and a sustainable drainage system for the surface water. The site is currently an agricultural field and there is no evidence to suggest that this would result in any adverse impacts in terms of surface water flows, therefore complying with the requirements of vi of policy H22 and SD2 and SD3. In terms of biodiversity, the site is currently an area of improved grassland with no features suitable to host protected species. This is noting that the existing hedgerows are to be retained and would not be affected by the development. As such there is no evidence to suggest that the proposals would have an unacceptable impact on biodiversity complying with part i of policy H22 and policy BNE3.

### Impact on neighbouring amenity

Policy H22 requires the movement of vehicles to and from the site not to cause undue disturbance whilst policy SD1 states that the Council will only support development that does not lead to adverse impacts on the environment or amenity of existing occupiers. The site is such that it is sufficiently separated from existing dwellings and other land uses so as to not impact on the amenity any of these surrounding land uses. The application site is located

such that the amenities of occupiers of the site would not be unduly impacted upon by noise and disturbance with sufficient space provided for amenity and play. In this respect the proposal complies with the requirements of criterion i, vii and viii of policy H22, policy SD1 and the provision of the PPTS.

### Archaeology

The site is located within an area of known archaeological activity, located around 20m to the north of a the 'Aston Cursus Monument', with other prehistoric activity recorded on the eastern side of Shardlow Road and crop markings on land to the north and west of the site. A geophysical survey of the site has been undertaken, which identified only small anomalies to the eastern boundary of the site. As such it is considered necessary for a scheme of archaeological investigation to be conditioned in order that a scheme of trial trenching can be undertaken on the site to characterise any remains in accordance with the requirements of policies BNE2 and BNE10.

### Agricultural land

The site is identified as Grade 3 agricultural land, and whilst only Grade 3a is considered to be 'Best and Most Versatile' (BMV), the classifications available for the site do not identify the grade of the site in any more detail. Policy BNE4 of the LP1 and paragraph 170 of the NPPF seek to protect such quality agricultural land, and wherever possible direct development to areas of lower/poorer quality land. Although development of the site would result in the loss of BMV agricultural land, it is a relatively small site which is constrained by its triangular shape and as such, its loss is unlikely to harm the rural economy. Although the loss of this land weighs against the environmental sustainability of the proposal, it does not do so to a significant degree that would outweigh the general conclusions that the site is sustainable in overall terms.

### Conclusion

Whilst the concerns of local residents are noted, the development of the site for 6 Gypsy pitches would not result in any significant adverse impacts as outlined above which would warrant refusal of the application. This is recognising and accepting the weight that needs to be given to meeting the needs of the district in terms of Gypsy pitch provision and the lack of a rolling 5 year supply which is a significant material consideration which adds weight to the acceptability of the scheme.

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

### **Recommendation**

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

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the SITE LAYOUT PLAN received 14 August 2017, the AMENITY BUILDING elevations and floor plans received 14 August 2017, and the PROPOSED SHOWER BLOCK elevations and floor plans received 14 September 2017; unless as otherwise required

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

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

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in the Government guidance 'Planning Policy for Traveller sites' (August 2015), or any Government guidance which amends or replaces that guidance.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements.

4. There shall be no more than 6 pitches on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 (as amended) & the Caravan Sites Act 1968, shall be stationed at any time of which only one caravan per pitch shall be a residential mobile home/static caravan.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements and to the number that has been justified, so to preserve the character of the locality and ensure the occupation of the site does not dominate the nearest settled community.

5. No more than one commercial vehicle per pitch shall be kept on the land for use by the occupier(s) of that pitch hereby permitted, and they shall not exceed 3.5 tonnes in weight. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.

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

6. No commercial activities shall take place on the land, including the storage of materials.

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

7. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological monitoring (WSI) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- i) the programme and methodology of site investigation and recording;

- ii) the programme and provision to be made for post investigation analysis and reporting;

- iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;

- iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

- b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

8. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts.

9. 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 pitch to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. 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 character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

10. Prior to the construction of a hard surface, details including patterns, and samples if necessary, of the materials proposed to be used on the hard surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials.

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

11. Prior to their incorporation in to the buildings hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

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

12. Prior to the occupation of a pitch a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include landscaping of the full extent of the western boundary of the site. 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 a pitch 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 interest of the visual setting of the development and the surrounding area.

13. Prior to the occupation of a pitch a landscape management plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives, management responsibilities (including contact details and means of informing the Local Planning Authority of any change to those details) and maintenance schedules for all landscape areas. Where relevant, the maintenance schedules shall include means to annually review the condition of any hard surfaces, fixed play equipment or furniture, and replace/upgrade those surfaces, equipment and furniture on a rolling programme. The landscape management plan shall be carried out as approved.

Reason: In the interest of the visual setting of the development and the surrounding area over the lifetime of the development, and to ensure appropriate recreation facilities remain available to the public.

14. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings 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 phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

15. No development, including preparatory works, shall commence until the existing access to Shardlow Road has been modified in accordance with the application drawings. The junction shall be laid out, constructed and provided with visibility sightlines of 160m in both directions, both measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

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

16. Prior to the first occupation of any pitch hereby permitted, details of a pedestrian gate and access from the site to the adjacent public footpath (to the west) shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be carried out prior to the first occupation of any pitch and thereafter retained available for use by occupiers of the site.

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

17. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking (of 2 vehicles per pitch) and manoeuvring of residents and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

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

18. Any entrance gates erected in the private driveway shall be set back by a minimum distance of 15m as measured from the nearside edge of the carriageway.
- Reason: To ensure safe and suitable access for all users, in the interests of highway safety.
19. No laying of services, creation of hard surfaces or siting of a caravan/mobile home shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the site.
- Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.
20. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a scheme for the drainage of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the site.
- Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment.

#### Informatives:

1. The application site is abutted by a Public Right(s) of Way Aston on Trent Footpath No. 8, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
3. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

16/10/2018

**Item** 1.2

**Ref. No.** 9/2018/0616/NU

**Applicant:**  
**Mr John Price**  
**4 Covert Place**  
**Albert Village**  
**Swadlincote**  
**DE11 8HB**

**Agent:**  
**Alan Yarwood**  
**Roger Yarwood Planning Consultant**  
**Wheatley Barn**  
**Wheatley Road**  
**Two Dales**  
**Matlock**  
**DE4 2FF**

**Proposal:** CHANGE OF USE FROM EQUESTRIAN LAND TO RESIDENTIAL GYPSY CARAVAN SITE WITH ONE PITCH AT LAND AT SK2913 6212 ACRESFORD ROAD NETHERSEAL SWADLINCOTE

**Ward:** SEALES

**Valid Date** 06/07/2018

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

The item is presented to Committee at the request of Councillors Hall and Murray as local concern has been expressed and that the Committee should debate the issues which are finely balanced.

#### **Site Description**

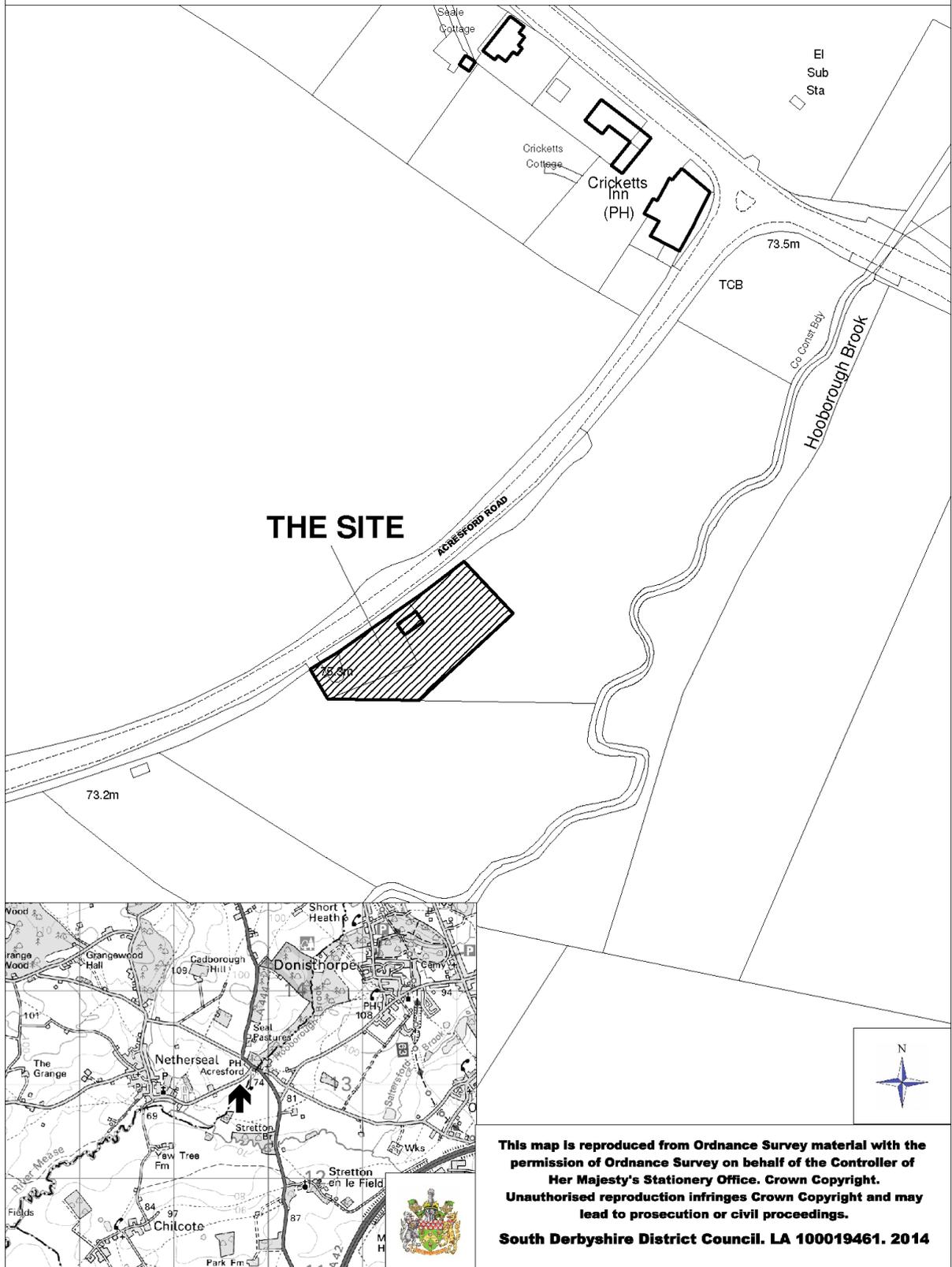
The application site is approximately 0.12 ha in area, with the remainder of the field also within the applicants ownership. The field is located to the south east of Acresford Road, approximately 120m south west of The Crickets Inn public house. The A444 is located to the north east of the site. The site is accessed via an existing field access gate to the south western part of the site.

An existing mature hedgerow forms the north western boundary of the site to Acresford Road, with the field boundary formed by the winding Hooborough Brook. The Hooborough Brook forms the boundary between the South Derbyshire administrative area and that of North West Leicestershire. The site lies within open countryside, and whilst not the subject of any landscape designations is located within the River Mease Special Area of Conservation (SAC).

#### **Proposal**

The application proposes the change of use of the land in question from equestrian land to a residential gypsy caravan site with one pitch. The pitch is for a single family and would comprise of a static caravan, touring caravan and space for vehicle parking and amenity space. The application also includes the erection of fencing to the sites internal boundary to the field and tree planting to the north eastern boundary. Foul drainage is proposed to be

9/2018/0616 - Land at SK2913 6212, Acresford Road, Netherseal, Swadlincote (DE12 8AP)



connected to the mains sewer at the junction of the A444 and Acresford Road. Surface water would be disposed of via a sustainable drainage system.

At the time of the officer's most recent site visit, the adjoining land had been vacated having been previously occupied by three touring caravans in recent weeks.

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

The Supporting Statement describes the application site and the 2014 appeal on the site. The proposal is described as being identical in every respect to the previous application save for the applicant. The applicant is considered to be a member of the local travelling community, having a nomadic lifestyle and strong links with the area. He is described as travelling extensively throughout the county trading in property maintenance. However, he needs a base from which to operate and where he can obtain health and other community services. The applicant is considered to comply with the current definition of a Gypsy as set out in the annex to the Planning Policy for Traveller Sites 2015 (PPTS). The site is described as benefiting from dense mature screening, with an existing access from Acresford Road. The proposal is considered to comply with the locational guidance set out in the PPTS and complies with all the criteria set out in the relevant Local Plan Policy.

### **Planning History**

- 9/1992/0231: Retention of shed, shelter and stable. Approved 24/07/92.
- 9/2003/0748: Erection of block of 3 stables. Withdrawn.
- 9/2007/0243: Formation of vehicular access. Approved 30/04/07.
- 9/2008/0829: Change of use of existing temporary stables and food store into permanent buildings with equine hardstanding. Approved 30/09/08.
- E/2011/0022: Enforcement Notice against breach of planning control relating to the use of the land as a Gypsy site, removal of the caravan, portable toilet, hardcore material and reduction in height of the timber close boarded fence at the access where adjacent to the highway. Appeal (APP/F1040/C/11/2158251 decided 17/02/12) dismissed as a result of the absence of evidence to show that the development would not impact adversely on the River Mease SAC. The Inspector however, considered that the development would not cause any harm to the rural landscape or in visual terms subject to the imposition of conditions. The site was considered to be in a reasonably sustainable location and that there would be no material harm to highway safety from its limited usage.
- 9/2012/0570: Retrospective application for the change of use from equestrian land to residential gypsy site for one pitch. Refused 26/06/13. This application was refused following the Council undertaking surveys of the site and drainage at the request of Councillors, for the following reason:
- 'Insufficient detailed information has been submitted to demonstrate that connection to the mains sewer under the A444 is achievable. Without that connection it is likely that an alternative drainage system would be required for which no detail has been submitted, which could have an adverse impact on the integrity of the River Mease Special Area of Conservation and Site of Special Scientific Interest, contrary to Local Plan Saved Environment Policy

11 and paragraphs 7, 17, 109 and 118 of the National Planning Policy Framework.'

This decision was subsequently appealed (APP/F1040/A/13/2201414) and allowed 17/07/14. The main issue considered by the Inspector was the effect of the development on the integrity of the River Mease Special Area of Conservation and Site of Special Scientific Interest, having particular regard to whether a connection to the main sewer could be achieved. The evidence before the Inspector included no objections from the Environment Agency, Severn Trent Water and Natural England such that they were satisfied that a connection to the main sewer is feasible. Such a connection was considered sufficient to ensure the appropriate management of foul effluent from the development in accordance with the Water Quality Management Plan. This together with the removal of contaminated material and its replacement with clean inert material, the Inspector concluded that the development would ensure no adverse impact of the River Mease SAC and Site of Special Scientific Interest.

### **Responses to Consultations**

The Highway Authority notes the previous planning applications and appeals and have no objection to the proposal subject to a condition requiring the provision of two car parking spaces at the site.

The Environmental Health Manager has no objection subject to a condition requiring the remedial measures set out in the previous contaminated land survey to be carried out and a validation report confirming that the necessary works have been undertaken.

The Environment Agency has no objections.

Natural England note that the previous decision allowed the development to proceed with the drainage being conditioned. The response notes that SDDC are the competent authority responsible for ensuring there will be no impact on the SAC, subject to SDDC being content and grant permission they would have no objection.

Derbyshire Wildlife Trust notes that the site falls within the SSSI and impact zone for the River Mease. The Trust welcomes the proposed tree and hedge planting and recommends that the condition requiring a riparian buffer to be provided on the previous appeal is repeated.

North West Leicestershire District Council has no objections to the proposals provided the Council are satisfied that the proposed development complies with the relevant development plan policies. Two notes are attached that advise the Council to undertake a Habitats Regulation Assessment and that Oakthorpe, Donisthorpe & Acresford Parish Council are consulted on the proposals.

### **Responses to Publicity**

Netherseal Parish Council strongly objects to the proposed development for the following reasons;

- a) The application is already retrospective and two caravans are already being lived in on the site.
- b) The application does not meet the requirements of the South Derbyshire District Council Local Plan.

- c) The site is a gateway to the County, District and village and will give a poor impression of the area.
- d) Could cause pollution of the River Mease SSSI.
- e) The sewer connection is not financially viable.
- f) Rubbish is already being tipped on site and burning of rubbish is taking place.
- g) The application cannot promote peaceful and integrated co-existence between the site and the local community when the local community is totally opposed to the development.
- h) It is obvious that future developments will be required such as amenity blocks.
- i) South Derbyshire already provides sufficient pitches for the needs of the travelling community up to 2024.
- j) Current traffic to and from the site clearly indicates that it is intended to run a business from the site.
- k) At least one vehicle is sited within the flood plain outside the application site.
- l) Hardcore has been tipped outside the site plan.

Oakthorpe, Donisthorpe & Acresford Parish Council object to the proposed development for the following reasons;

- a) There is already a large number of traveller designated sites both private and local authority South Derbyshire has already met its local plan number for 2024.
- b) Depositing of waste will have a detrimental impact on the local water system (SSSI).
- c) Parking and highways concerns.
- d) A business is currently being run from the site.
- e) Part of the site is in Flood Zone 3
- f) The application is for one family and one static dwelling, currently there are 2 families on-site.
- g) Concern at future non-compliance with regard to waste and burning on-site.

30 representations have been received from 35 residents objecting to the proposed development. The salient points raised are summarised as follows;

- a) Impact of the development on the River Mease SAC due to excessively high pollutants, that no piecemeal plans should be approved;
- b) Any development flies in the face of the spirit of the National Forest; it should be an oasis of calm natural beauty;
- c) Impact on the visual landscape at this entrance of South Derbyshire, National Forest and Conservation Areas of Netherseal and Acresford is totally unacceptable;
- d) A high chance that hardstanding brought on to the site is toxic;
- e) Burning of material is taking place on-site, which could find its way in the watercourse;
- f) Constant human and animal presence must disrupt the integrity of the SAC;
- g) Highway safety: This is a dangerous access and cars are often parked on the road and pavement;
- h) South Derbyshire exceeds the required number of traveller sites, some of which are nowhere near capacity;
- i) South Derbyshire has more gypsy sites than the rest of Derbyshire combined why is this?
- j) South Derbyshire has met its need up to 2024;

- k) There is clear evidence that a business is being run from the site with no permission;
- l) No adequate foul or surface water management;
- m) The field is subject to flooding;
- n) The site is not designated for housing;
- o) Would connecting to the sewer be economically viable?
- p) This is a greenfield site are no old industrial sites available?
- q) Any new drainage should be conditioned with a short time for implementation to reduce the level of risk;
- r) There is an existing site on the other side of the village so why is another one needed?
- s) The proposal is not in character with the existing village, and would ruin the aesthetic of the immediate vicinity;
- t) Impact on the settled community through intimidation, harassment and damage to property;
- u) The decision must be made based on approved plans and policies, do not disregard the views of the settled community and the changes that have been implemented since the previous appeal;
- v) A similar application dealt with by Malvern Hill District Council (15/00209/ful), was refused and the appeal dismissed following a lapsed permission and this decision should set a precedent and support refusal of the current application;
- w) The proposal is contrary to policy H22 of the Local Plan as there are currently 87 pitches plus 8 caravans in the District therefore there is no requirement for additional sites;
- x) Peak District and High Peak currently have no sites with no expectation for any in future;
- y) The nearest shop is over 1 mile away and the nearest hospital is 8 miles away;
- z) Activity on the site is outside the application site, and the applicant has been living there without permission contrary to Council protocol;
- aa) This is a new planning application and should be considered as such;
- bb) Significant amounts of hardcore is being deposited on-site;
- cc) Impact on the Crickets business and the resultant impact on jobs;
- dd) A full topographical and hydraulic survey is required to confirm the site is capable of being drained appropriately;
- ee) Noise pollution from lorries on the site;
- ff) A child's crèche appears to be operating from the site;
- gg) There are plans for a toilet block, how many gypsy families might there be?

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S6 (Sustainable Access); H22 (Sites for Gypsies and Travellers and for Travelling Showpeople); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); BNE1 (Design Excellence); BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness); INF7 (Green Infrastructure), INF8 (The National Forest); INF2 (Sustainable Transport); INF1 (Infrastructure and Developer Contributions).

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

### **National Guidance**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Planning Policy for Traveller Sites (PPTS)
- The Conservation of Habitats and Species Regulations 2017

### **Local Guidance**

- Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment 2014
- South Derbyshire Design Guide SPD

### **Planning Considerations**

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

- Policy considerations
- Principle of development;
- Impact on the River Mease Special Area of Conservation (SAC);
- Visual and landscape impact;
- Highway Safety; and
- Other issues.

### **Planning Assessment**

#### Policy considerations

The Development Plan forms the primary policy consideration for this application, with the NPPF and PPTS being material considerations is considering the suitability of new applications for Gypsy pitches. In this particular case, the previous appeal decisions are also significant material considerations, and the two previous Inspectors conclusions on various matters are referred to where relevant.

LP1 Policy H22 (Sites for Gypsies and Travellers and for Travelling Showpeople) identifies that the Council will set targets for new pitches according to the most recent needs assessment agreed by the Council. The policy states that allocations to meet identified needs will be made through a Site Allocations Development Plan Document (SADPD), and that sites for allocation or planning applications will be considered suitable provided they are of an appropriate scale and character and that 8 detailed criterion are met. The detailed criteria are as follows and are considered under the relevant headings of this report;

- i) development does not result in an unacceptable impact on the local environment, including biodiversity, heritage assets or conservation, the surrounding landscape (unless capable of sympathetic assimilation) and compatibility with surrounding land uses; and
- ii) safe and convenient vehicular and pedestrian access to the public highway can be provided with no undue adverse impact on the highway network; and
- iii) the movement of vehicles to and from the site will not cause undue disturbance or be inappropriate for the locality; and
- iv) there is adequate space for parking, turning and servicing on site; and

- v) the site is reasonably accessible to local services including health services, shops, education, public transport and other community facilities; and
- vi) the site is not located in an area at undue risk of flooding; and
- vii) suitable landscaping and boundary enclosures are provided to give privacy to both occupiers and local residents and minimise impact on the surrounding area; and
- viii) the site provides a safe and acceptable living environment for occupiers with regard to noise impacts, adequate on site facilities for parking, storage, water supply and electricity supply, drainage and sanitation.

The PPTS sets out the Government's planning policy for traveller sites, with the aim of ensuring fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Policy H relates specifically to determining applications for traveller sites and identifies the following issues (amongst other matters) that should be considered in determining planning applications;

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant;
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
- e) that they should determine applications for sites from any travellers and not just those with local connections.

The need to restrict new traveller sites in the open countryside away from existing settlements is acknowledged in the PPTS as is the need to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community and avoid placing undue pressure on local infrastructure. The PPTS then identifies 4 further matters which Local Planning Authorities should attach weight to;

- a) effective use of previously developed (brownfield), untidy or derelict land;
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children;
- d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

The PPTS also identifies the need to demonstrate an up-to-date 5 year supply of deliverable sites, and if unable to demonstrate such a supply should be seen as a significant material consideration.

#### Principle of development

The need for Gypsy pitch provision; The Council's GTAA, published in June 2015, sets out the identified future needs for new Gypsy and Traveller accommodation in the District and is the most recent accepted target for the delivery of sites in South Derbyshire. The

assessment identifies a need within the District for 14 new pitches over 5 a year period from April 2014 to March 2019, with a subsequent need for 7, 8 and 9 pitches for each 5-year period thereafter up to 2034. As detailed above, policy H22 commits the Council to allocating new sites to meet this identified need through a SADPD. However, no SADPD has been prepared and as such no suitable sites are allocated, so in the period prior to the preparation and adoption of this document, the need for additional Gypsy pitches must therefore be met by individual applications.

To meet these needs, permission has been granted for 14 pitches since the 1 April 2014, which demonstrates that the need for additional pitches is being met and delivered to accord with the requirements of the GTAA. However, notwithstanding the fact that the Council is delivering the necessary pitches, there is also the requirement for the Council to identify a supply of specific sites sufficient to provide a rolling 5 years' worth of sites against the GTAA targets as required by the PPTS. The current 5 year supply requirement lies at 8.4 pitches based on the need identified within the GTAA for the period 2018-2022. Despite the recent permissions to meet the need between 2014 and 2019, the Council is not currently in a position to demonstrate a sufficient supply of specific sites to meet the need identified within the GTAA; i.e. those sites with permission that have not been implemented (as no sites are allocated). The PPTS identifies that if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this will be a significant material consideration in planning decisions.

Specific needs of the applicant: The application is not advanced with any specific personal circumstances of the applicant. However, he has no permanent home and is a member of the local travelling community, and has strong links to the local area.

Sustainability of the site: The site is within a walking distance of around 800m to Netherseal which is identified as a Local Service Village within the LP1. The village has a primary school, church, local shop and public houses. The site is therefore relatively close to services and facilities required to support occupants of the site. The site was considered by the two previous Inspectors to be in a relatively sustainable location for a site outside a settlement. The site is not remote from day-to-day services or away from an existing settlement, and was considered by both previous Inspectors to be a sustainable location.

Balance with the settled community: It is noted that the site would extend the Gypsy community in the wider area, which already includes a number of established sites, but in this instance the addition of one pitch would represent a very small increase in the overall number of families in the area. In this vein, it is not considered that the settled community would be overwhelmed by the proposal.

#### Impact on the River Mease Special Area of Conservation (SAC)

The application site is located within the River Mease SAC, with the Hooborough Brook (a tributary of the Mease) forming the boundary of the applications ownership to the west of the application site.

The location of the site within influencing distance of the River Mease SAC requires an assessment of the development to be undertaken under the Habitats Regulations in order to assess the impact of the development on the SAC, with development only being deemed appropriate if it can be demonstrated that there would be no adverse effect on the integrity of the SAC. Water quality is a key issue in relation to the River Mease SAC, with potential sources of pollution arising from discharges to the catchment from foul effluent and contaminants.

This provision of appropriate foul drainage was a key consideration in the two appeal decisions on the site. The first appeal was dismissed on the basis of the lack of information provided to demonstrate that a connection to the foul water main in the A444 was feasible. The second appeal considered this issue again, and the appeal was supported by additional information from Severn Trent Water that a foul connection to the existing main drain in the A444 was indeed feasible and that permission to connect to the foul main had been granted by them.

The inspector in the second appeal was content that sufficient information had been submitted to demonstrate, with a reasonable degree of certainty, that a sewer connection was feasible. This conclusion was based on the facts that all of the land necessary to provide the connection (i.e. across the field to the A444) was within the applicants control, and that no objections were received from Severn Trent Water, the Environment Agency or Natural England. In addition, a financial contribution in line with the Developer Contributions Scheme (DCS) was made at the time of the second appeal in order to compensate for an additional connection to the foul drainage system. The situation has not changed, no objections have been received from the above noted bodies and the land required for the connection is in the control of the applicant

In terms of surface water, the presence of previously disposed of hardcore and what appears to be recently disposed of building materials has the potential for some contamination of surface water, which was confirmed in information supporting the second appeal. As no evidence has been provided to demonstrate that this material has been removed from the site it is considered necessary for the existing hardcore on the site to be removed and replaced with material from an agreed source in order to provide the proposed areas of hardstanding. It is considered appropriate for a surface water condition to be imposed on the development in order to provide a soakaway on-site, and also provide a planted buffer in-between the site and the Hooborough Brook in order to protect the integrity of the brook from the use of the site.

The proposed development has been the subject of a detailed Habitats Regulation Assessment which concludes:

A conclusion of no likely significance has been determined in respect of the potential effects on water quality from foul water in the River Mease SAC from the proposed development at this site alone.

In principle surface water from this type of use is unlikely to have any effect on the SAC, especially when SUDS measures required by policies in the Local Plan are taken into account. It is however, considered necessary to impose an appropriate SUDS condition to ensure appropriate management of water falling on impermeable surfaces as a need for appropriate tree/national forest planting to screen the site and provide a riparian buffer

Ensure any decision includes a requirement for road planings and other imported material to be removed from the site and where necessary ensure it is replaced by clean aggregate prior to occupation.

In light of this and the previous appeal decisions it is considered that the proposed development would not have a demonstrable impact on the River Mease SAC, and as such complies with the Conservation of Habitats and Species Regulations 2017, and the requirements of policies H22 and SD3.

Visual and landscape impact

The site is located in a rural area, but is not the subject of any special landscape constraints, such that consideration of the visual and landscape impacts of the proposal relates to the impact on the character of the countryside as required by policies H22, BNE4, BNE5 and the PPTS.

The site is bound by a mature hedge to Acresford Road, which screens direct views of the site and hardsurfacing. This dense boundary would provide only glimpses of the development in passing, with any long distance views restricted by existing vegetation close to the site.

The application includes additional tree and hedge planting along the sites boundaries, in particular to the north in order to screen any fleeting views of the site from the A444. The benefit of the existing hedgerow to Acresford Road, and the provision of tree planting and hedgerows in addition to fencing (detail of which are to be agreed by condition) is such that the site would well screened from the surrounding road and footpath network, sufficient privacy would be provided for occupiers of the site whilst also ensuring that the site does not appear isolated or intrusive.

This conclusion echoes that of the Inspectors in both previous appeals, who considered that subject to a restriction on the number of caravans being placed on the site and further hedge and tree planting (as proposed in this application also) they were satisfied that the use of the site as a gypsy and traveller site would not result in material harm to character or appearance of the countryside. There have been no material changes to the site, its disposition or designations that could reasonably be considered to change how this issue should be considered. As such the proposed development is considered to comply with the visual and landscape considerations as required by policies BNE1, BNE4, BNE5 and H22.

#### Highway safety

The existing vehicular access to the site was approved in 2007 when associated with the equine use of the site. The design of the access is considered suitable, with visibility from the site on access and egress considered appropriate. Sufficient space is proposed within the site to ensure adequate parking and turning space is available to allow vehicles to leave the site in a forward gear.

Vehicle movements generated by the proposal are unlikely to have a negative impact on the capacity of the wider highway network. It is noted that the Highway Authority raise no objection to the proposal. As such it is considered that the proposal would not adversely impact on highway safety to a point where which would reasonably justify refusal of the application. It is noteworthy that both previous Inspectors concluded that the development would be unlikely to give rise to any material harm to highway safety. As such the proposal is considered to comply with the requirements of policies H22, S6 and INF2.

#### Other issues

Impacts on amenity: The site is such that whilst not considered to be in an unsustainable location is sufficiently separated from existing dwellings and other land uses so as to not impact on the amenity of surrounded land uses. The application site is located such that the amenities of occupiers of the site would not be unduly impacted upon by noise and disturbance with sufficient space provided for amenity and play. The comments of residents raising concerns about commercial activities are noted and suitably worded conditions can be imposed to prevent any commercial use of the land.

Biodiversity: The proposed development subject to adequate control of on-site drainage, the provision of additional tree and hedgerow planting, and a planted buffer to be provided in-

between the site and the Hooborough Brook the proposal would lead to an improvement in the biodiversity value of the site.

Flood risk: The application site is located in Flood Zone 1, and as such is at a low risk of flooding. However, it should be noted that large part of the applicant's ownership i.e. the remainder of the field outside the application site is at significant risk of flooding and as such any development on this area would be inappropriate.

### Conclusion

As outlined above the site is considered to be in a suitably sustainable location not away from existing settlements, the development of one pitch is considered to be an appropriate scale of development for the site which would not dominate the area or settled community, suitable drainage from the site can be provided to ensure that there is no harm to the River Mease SAC, and subject to a limit on the number of caravans on the site and the provision of a detailed landscaping scheme there is considered to be limited harm to the landscape and countryside in general. As mentioned above, this is a view recently endorsed by an Inspector who allowed an appeal on the site in 2014.

There is clearly a need for new gypsy and traveller sites within the District as identified within the GTAA, whilst the immediate need for such sites is being met through the granting of permissions since April 2014 the fact that the Council have a lack of a rolling 5 year supply of gypsy and traveller pitches carries considerable weight in favour of the proposal. This weight coupled with the lack of any demonstrable harm result in the recommendation of approval before you. Generally the proposed development is considered to comply with the requirements and provisions of the development plan, the PPTS and NPPF.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the site plan dated as received on 12 June 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in the Government guidance 'Planning Policy for Traveller sites' (August 2015), or any Government guidance which amends or replaces that guidance.  
Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements.
4. There shall be no more than one pitch on the site and no more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 (as amended) &

the Caravan Sites Act 1968, shall be stationed at any time of which only one caravan per pitch shall be a residential mobile home/static caravan.

Reason: The creation of a residential use in this location would not normally be permitted and an exception has been made to provide accommodation solely for gypsies/travellers who satisfy these requirements and to the number that has been justified, so to preserve the character of the locality and ensure the occupation of the site does not dominate the nearest settled community.

5. No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted, and it shall not exceed 3.5 tonnes in weight.

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

6. No commercial activities shall take place on the land, including the storage or burning of materials.

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

7. a) within 1 month of the date of this decision or prior to the occupation of the site, a detailed scheme for the construction of the foul sewer to run from the site to a public sewerage connection in the A444 shall have been submitted for the written approval of the local planning authority and the said scheme shall be implemented in full and a connection made within 6 months of the date of its approval or from first occupation. All foul drainage shall be disposed of via this connection. Prior to the completion of such a connection any on-site foul drainage shall be disposed of via a contained foul system.

b) within 2 months of the date of this decision or prior to the occupation of the site a scheme for: tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities; a sustainable drainage system for the disposal of surface water and a riparian Buffer Zone (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

c) the approved schemes shall be carried out and completed in accordance with the approved timetable.

Reason: Acknowledging the applicants desire to reside on the site as soon as is feasible, and in the interests of ensuring appropriate drainage and landscaping is provided in a timely manner in the interests of the integrity of the River Mease SAC and the appearance of the area.

8. Within one month of the date of this permission or prior to the occupation of the site, the existing unauthorised hardcore material on the site shall be removed and deposited to a waste transfer site, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority. Not less than 48 hours written notification shall be given to the local planning authority of the date when the material is to be removed from site so that a representative of the local planning authority can be present. Evidence or certification of deposition to the agreed site shall also be submitted to the Local Planning Authority within one week of the material being removed.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to

development commencing could lead to unacceptable impacts even at the initial stages of works on site.

9. Prior to the construction of any new areas of hardstanding, details of surfacing and hardcore materials shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the source and a chemical analysis of the materials to be imported. The areas of hardstanding shall be constructed in accordance with the approved details.

Reason: In the interest of the visual setting of the development and the surrounding area and to protect the health of the public and the environment from hazards.

10. Within one month of the date of this permission or prior to the first occupation of the site, space shall be provided for the parking of a minimum of two vehicles; and 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, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

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

11. Prior to the construction of a boundary wall, fence, gate or other means of enclosure, 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 site is 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 or means of enclosure shall thereafter be erected without the permission of the Local Planning Authority pursuant to an application made in that regard.

Reason: To maintain control in the interest of the character and amenity of the area.

12. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings 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 phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

#### Informatives:

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

16/10/2018

**Item** 1.3

**Ref. No.** 9/2018/0752/SSA

**Applicant:**  
Mr Chris Gibbs  
Tricas Construction Ltd On Behalf Of  
Derwent Housing Assoc.  
No. 1 Centro Place  
Pride Park  
Derby  
DE24 8RF

**Agent:**  
Mr Sam Dimmack  
Sutton And Wilkinson  
Victoria House  
13 New Penkrige Road  
Cannock  
WS11 1HW

**Proposal:** THE ERECTION OF 100% AFFORDABLE HOUSING DEVELOPMENT FOR 22 DWELLINGS CONSISTING OF 3 NO TWO BED BUNGALOWS, 4 NO TWO BED HOUSES, 15 NO THREE BED HOUSES AND ASSOCIATED WORKS ON LAND AT STALEY CLOSE SWADLINCOTE

**Ward:** SWADLINCOTE

**Valid Date** 16/07/2018

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

The item is presented to Committee as the site is Council owned, and is a major development where more than 2 letters of objection having been received.

#### **Site Description**

The application site is comprised of three parcels of land, split by an existing residential development granted permission in 2009. The two smaller parcels of land front Wilmot Road, with the larger rectangular portion of the site located off an existing turning head on Staley Close. Two of the three parcels are currently bound by hoardings and the third parcel to the south east of the Staley Close access from Wilmot Road, is currently open with a number of trees present. The parcels of land are surrounded by existing residential development and the total area of the sites is 0.56ha.

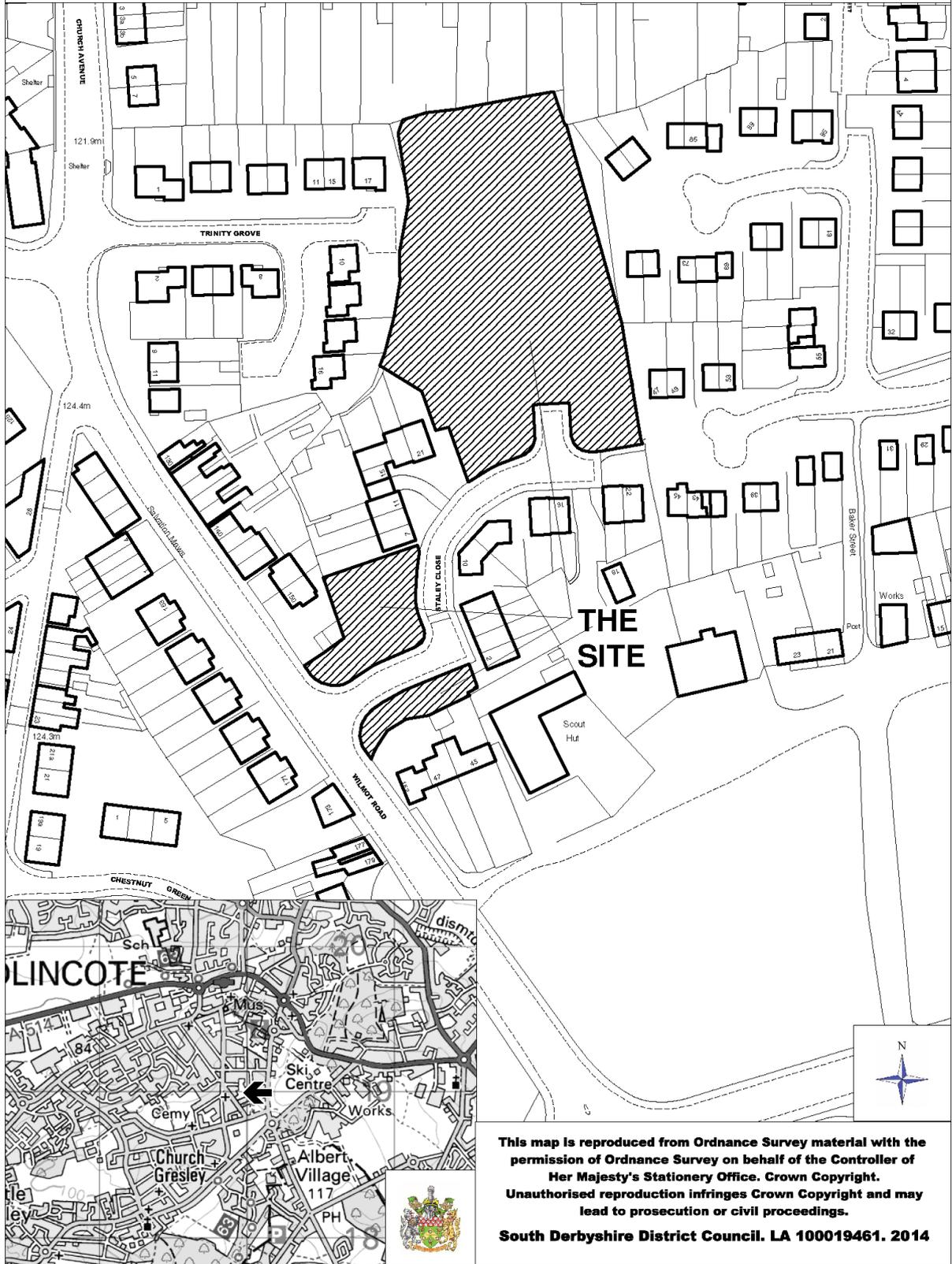
Maurice Lea Memorial Park is located approximately 150m to the south of the site offering amenity space to existing and future residents.

#### **Proposal**

The application proposes the re-development of the site for the erection of 22 affordable dwellings, to be developed and managed by Derwent Living. The scheme has been the subject of detailed negotiations and amendments to its layout and the design of the individual dwellings.

The scheme would see two of the three parcels of land development for housing with the third site retained as an area of planted open space to the south of the site access off Wilmot Road. The smaller of the parcels to be developed is proposed for the erection of a pair of semi-detached bungalows. The larger site is proposed with a mix of detached, semi-

9/2018/0752 - Land at Staley Close, Swadlincote DE11 9GR



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detached terraced dwellings, with a layout that addresses Staley Close and its proposed extension, whilst retaining the existing pedestrian access to Rosecroft Gardens to the east.

A mix of 3 x two bedroom bungalows, 4 x two bedroom houses and 15 x three bedroom houses are proposed. This mix of dwellings was determined by identified need in the area, and discussions between Derwent Living and the Councils Strategic Housing Manager in particular the need for adaptable bungalows.

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

The Planning Statement supporting the application sets out the policy context for the site highlighting the fact that the proposed development is within the settlement boundary of Swadlincote and as such the principle of development on this site is considered acceptable, in a location that is well suited to residential development. When appraised against the National Planning Policy Framework and the Local Plan (Part 1 and 2), the proposal is considered to positively contribute to the three interrelated roles of sustainable development. The proposals deliver numerous benefits centred on the creation of affordable dwellings, job creation and new landscaping and planting. The proposals would reinforce a proportionate growth of affordable housing where new residents will spend locally and participate in community activity.

The Design and Access Statement notes that the scheme provides the density necessary to enable the redevelopment of this area to be financially viable whilst providing much needed housing for the Swadlincote area. The contextual assessment of the site highlights the site's constraints and opportunities such as the desire to keep the existing areas of undeveloped open space, the shape of the site, proximity of neighbouring properties and existing road system. The evaluation of key design influences is considered to have resulted in a responsive, sensitively executed design solution that will enhance the visual interest and appearance of its surroundings and create a place that optimises the opportunities that are available.

The construction of good quality traditional dwellings will be attractive to local residents and future tenants alike and will integrate the development into this area of Swadlincote.

A Tree Survey undertaken at the site identified a number of category C trees within the site and a single category B tree. The majority of the category C trees are located within the existing area of open space and would not be affected by the development, although a small number of self-set young trees would be removed. The single category B tree to the eastern boundary of the site is to be retained and any new building is located a sufficient distance from the RPA of the tree.

A Phase II Geoenvironmental Assessment and Coal Mining Risk Assessment have been undertaken on the site, including sample borehole and trial pit investigations to investigate the presence of historical mine workings, shallow coal and unrecorded workings. The reports recommends specific foundation designs based on the ground characteristics of that area including the area of the site associated with historic clay and coal workings. Analysis of the ground gas monitoring undertaken indicates that gas protection measures will be required.

The Preliminary Ecological Appraisal confirms that the site is of 'low ecological value' consisting of primarily of improved grassland. There are no Statutory or Non-Statutory Designated Nature Conservation Sites within or adjacent to the site or that will be impacted by the proposed development, and no protected species were recorded within the site and the site has low suitability for any protected species, with no further surveys recommended or considered necessary.

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

### **Planning History**

9/2009/0883 The erection of 18 dwellings and associated access, turning and parking. Approved 15/12/09. This 100% affordable housing scheme is the existing development which separates the parcels of the application site.

### **Responses to Consultations**

The Highway Authority has no objections subject to conditions relating to the submission of a construction method statement, and provision of parking and visibility splays.

Environmental Health has no objection subject to conditions relating to contaminated land and hours of construction.

The Environment Agency has not commented on the proposal.

The Strategic Housing Manager notes that she has had considerable involvement in the site and is happy with the site layout and proposal which will provide for much needed affordable rented homes in the area.

The LLFA has no objection to the proposed development subject to conditions. This is following the submission of a drainage strategy, which demonstrated that the site is not suitable for the use of infiltration drainage.

The National Forest Company note that the site extends to over 0.5ha (0.58 ha), and as such 20% of the site should be woodland planting within the application site. As there is insufficient space within the site, a financial contribution of £3,850 is requested to compensate for the lack of on-site provision.

The Coal Authority notes that the site is in close proximity to three mine entries, and there is likelihood that historic shallow coal mining activity took place on the site. As such remedial measures are required in order to mitigate any risk posed by any off-site coal mine entry collapse. The Coal Authority also notes the presence of shallow fireclay workings and an abandoned roadway. Subject to a condition requiring the submission a detailed remediation strategy has no objection to the proposed development.

The County Planning Authority comments that the proposed development would generate the need to provide an additional 2 infant, 2 junior, 3 secondary and 1 post 16 pupils. Church Gresley Infant & Nursery School is project to have sufficient capacity to accommodate the additional places generated by the development no contribution is requested. As Pennine Way Junior Academy is projected to have insufficient capacity to accommodate the additional pupils generated by the development a contribution of £32,375.28 is requested towards Project A: Classroom Extension Scheme. In terms of secondary provision, the development falls within the normal area of The Pingle Academy which would not have sufficient capacity to accommodate the 3 secondary and 1 post-16 places a contribution of £99,628.51 is requested towards Project A for additional teaching accommodation.

### **Responses to Publicity**

Three letters of objection have been received, raising the following concerns/points:

- a) Overlooking concerns;
- b) The creation of an 'alleyway' to the rear of 12 Trinity Grove where drugs and noise could happen;
- c) Impact of noise levels and swearing which occurred after Staley Close was built;
- d) Devaluation of property;
- e) The dwellings should be screened by landscaping such as Rowans or Silver Birch Trees.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance) H21 (Affordable Housing); SD1 (Amenity and Environmental Quality); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); BNE1 (Design Excellence); BNE2 (Heritage Assets)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire South Derbyshire Design Guide SPD (Design SPD)

## **Planning Considerations**

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

- The principle of development;
- Design and layout;
- Viability and section 106 requirements;
- Other matters.

## **Planning Assessment**

### The principle of development

The application site is located within the Swadlincote urban area and the re-development of the site would facilitate the re-use of an underused and currently vacant site. Being located within the urban area, the principle of developing the site for housing draws support from policies H1 and S2 which reflect the presumption in favour of sustainable development and support residential development in sustainable locations. Vacant sites within the urban area are considered to be the most appropriate locations to support higher density developments to ensure an efficient use of land in the most sustainable locations, in accordance with Policy H20.

As set out above the application proposes the development of the site for 22 affordable dwellings (100%) of a mix that would meet the identified affordable housing needs of the town, assisting with the sites compliance with policy H21 (i.e. the dwellings to be delivered meeting the requirements of up to date housing needs evidence).

### Design and layout

The site is located in an area of mixed architectural styles, some good quality locally distinctive buildings and some in need of improvement. The aim of local and national design policies and guidance is to improve and raise the standard of design rather than simply copying the built form of an area. Policy BNE1 requires new development to enhance community safety by providing safe areas with good natural surveillance, to provide attractive legible streets, create a sense of place, create a locally inspired character which is visually attractive which respects local townscape and heritage, and the creation of continuity and enclosure of the street scene amongst other things.

The principal character of the immediate area surrounding the site area is rather standard 1960's suburban housing, with the exception of the part of the site which has been developed. The traditional and locally distinctive character of the area comes from Wilmot Road and Hastings Road, which has a strong Victorian character.

The design and layout of the scheme has been developed through extensive pre-application and post-submission discussions, with the design ethos of Building for Life carried through to the site layout and design. This has included ensuring that the dwellings are sited to provide strong built frontages, with prominent boundaries proposed as brick walling and dual fronted dwellings at corner sites. The design of the dwellings picks up on traditional detailing with 40 degree pitched roofs, stone cills and lintols, wet verges and overall are considered to appropriately reflect the simple Victorian building traditions which would improve the character of the area and reflect the existing development on Staley Close. Whilst indicative at this stage a suitable landscaping scheme is indicated on the site plan which, subject to the detailed species, would reflect the site's location in the National Forest by providing a small woodland (to the site entrance) and specimen trees within the development.

Overall, Building for Life principles are followed in creating affordable, functional and sustainable homes and a positive and welcoming built environment, in accordance with policy BNE1. The scheme presented is considered to be one that would greatly enhance the character and appearance of the area and would result in a very positive lift to a long-standing vacant site.

### Viability and section 106 requirements

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

The submitted viability assessment has been interrogated and demonstrates that the scheme would not be viable if infrastructure contributions were commanded. In this case, education contributions and National Forest (as outlined above), are requested and

considered to be CIL compliant. With only limited on-site open space provided, some open space, sports and built facilities contributions would also be justified.

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

Contributions totalling £177,979.28 have been taken into account when looking at the viability of the development, and whilst such a significant contribution would render the development of the site unviable. However, the applicants (Derwent Living) propose a contribution of £2,500 towards the provision of off-site National Forest Planting acknowledging the site location within the National Forest. It is open to Members to consider whether they would alternatively wish to re-allocate this contribution towards recreation or education provision.

#### Other matters

**Highway safety:** The existing access to the site from Wilmot Road (Staley Close) provides for suitable access to the site. The layout and highway alignment has been amended to ensure that suitable forward visibility is provided around corners in the site. In terms of parking provision, 2 dedicated spaces are proposed for each of the dwellings in order to comply with the local plan and SPD parking requirements.

**Residential amenity:** As a result of the orientation of the proposed dwellings, and the surrounding dwellings the only area of direct intervisibility would be between plots 6 -10 and Nos 10 – 16 Trinity Grove which would exceed the 21m separation distance required by the Design SPD and as such the proposed development is not considered to result in significant overlooking or overshadowing. There are two areas of land outside of the application to the eastern and western boundaries of the site, which it is understood are untitled areas of land and as such the use of this land is not within the remit of the application. These areas would be enclosed by fencing to prevent access from the site.

#### Conclusion

The proposal is acceptable in principle taking into account the provisions of the development plan, given the site is located within the urban area of Swadlincote. The development is considered to meet a recognised need for affordable housing within the District and significant weight is afforded to the 100% provision offered here. The proposed development is considered to be sensitively sited and designed. Overall the development is considered to result in an overall enhancement to the area through the re-development of this untidy vacant site.

The site has been the subject of detailed site investigations in respect of, contaminated land and coal mining risk and these matters are acceptable subject to conditions and relevant mitigation so to comply with the relevant legislation and planning policy. The surrounding highway network is considered to have sufficient capacity to accommodate the proposed development, and the level of car parking is considered appropriate for this town centre location. In addition the proposal is not considered to significantly impact on the amenity of any nearby residents.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with Drawing Numbers 2488 - 03 Revision F, 2488 - 05 Revision D, 2488 - 06 Revision E, 2488 - 07 Revision E, 2488 - 08 Revision D, 2488 - 09 Revision D, 2488 - 10 Revision D, 2488 - 11 Revision D, 2488 - 12 Revision E, and 2488 - 18 including the materials detailed therein; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The development shall proceed in accordance with the Tree Protection Measures as detailed in the Pre-development Tree Survey June 2018.  
  
Reason: In the interests of safeguarding existing trees and the visual amenities of the area.
4. The development shall proceed in accordance with Section 4 of the Phase 1 Preliminary Ecological Appraisal dated June 2018. All mitigation measures and biodiversity enhancement measures contained therein shall be implemented prior to the first occupation of the development or in accordance a previously approved timetable.  
  
Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.
5. Except in an emergency, no demolition, site clearance, construction, site works, fitting out, or deliveries (made to or dispatched from the site) shall take place other than between 0800 hours and 1800 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.  
  
Reason: To safeguard the amenities of nearby occupiers.
6. No development shall commence until a of a detailed remedial strategy to mitigate the risks posed to Plots 17, 20 and 21 by potential future off-site mine entry collapses adjacent to the eastern boundary of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details.  
  
Reason: The formulation of a detailed remedial strategy, prior to the commencement of development, is considered to be necessary to ensure that appropriate remedial and mitigatory measures to address coal mining legacy are identified and carried out before building works commence on site and, if necessary, during construction. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

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

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

8. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with Defra non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

9. No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.

10. No development including preparatory works, shall commence until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan / statement

shall be adhered to throughout the construction period. The plan / statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.

Reason: 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.

11. Prior to the construction of a dwelling a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework, or any document that amends or replaces it, and the requirements of the Council's Affordable Housing SPD. The scheme shall be based on the latest data available from the Council's Strategic Housing Manager (or equivalent postholder) and include:
- (i) the type and tenure of the affordable housing provision to be made which shall consist of not less than 100% of all housing units provided on the site;
  - (ii) the arrangements for the transfer of the affordable housing to an affordable housing provider (subject to the product concerned);
  - (iii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing (subject to the product concerned); and
  - (iv) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of affordable housing on the basis that the scheme is of marginal viability.

12. Notwithstanding the submitted details prior to the occupation of a dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of [the/each respective] 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/each respective] 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 interest of the visual setting of the development and the surrounding area.

13. Prior to the construction of a boundary wall, details of the 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 in the position detailed on the approved site plan (drawing number 2488 - 03 Revision F) before the respective dwelling(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. 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 between those approved and the highway or public open space(s).

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

14. Prior to the first occupation of plots 2 and 5, the forward visibility splay across each plot frontage shall be provided in accordance with application drawing 2488 - 03 rev F, laid out and constructed as footway, taken into the highway and shall not form part of the plot curtilage.

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

15. The premises, the subject of the application, shall not be occupied until the proposed new estate street between each respective plot and the existing public highway has been laid out in accordance with the approved application drawing (2488 - 03 rev F), constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

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

16. Prior to the first occupation of any dwelling hereby permitted, space for car parking and manoeuvring shall be provided in accordance with the application drawing and maintained throughout the life of the development free of any impediment to its designated use. Access to each parking space shall be provided with 2m x 25m visibility sightlines in each direction, the area forward of which shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

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

17. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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

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

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

## Informatives:

1. For assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Health Officer (Contaminated Land) in the Environmental Health Department: [john.mills@south-derbys.gov.uk](mailto:john.mills@south-derbys.gov.uk).

Further guidance can be obtained from the following:

1. CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
  2. CLR 11: Model Procedures for the Management of Contaminated Land.
  3. CLR guidance notes on Soil Guideline Values, DEFRA and EA.
  4. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
  5. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
  6. Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
  7. BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).
  8. BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings
2. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (Tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.
3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
5. The County Council does not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be

responsible for SuDS maintenance once the development is completed.

Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc). To make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

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

The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 4.3 of the CIRIA SuDS Manual C753. This type of development usually requires >2 treatment stages before outfall into a surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status.

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.

6. The applicant is advised to note the following in discharging the above drainage conditions:

1. The applicant should provide a detailed assessment of the proposed surface water drainage system, including but not limited to:

- a. Detailed plans of the surface water drainage system, indicating, pipe diameters, gradients, and pipe numbers
- b. A plan detailing the impermeable area for each pipe
- c. A detailed model of the surface water drainage system demonstrating that the proposed system does not surcharge during the 1 in 1 year event, flood in the 1 in 30 year event or Flood building or leave the site in the 100 year + climate change event
- d. The system should be designed to 40% climate change along with an incorporation of 10% impermeable area for urban creep.
- e. Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements
- f. 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
- g. Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall to ensure exceedance routes can be safely managed
- h. An assessment of the overland flow routes and how they will be managed through the site

2. 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.

7. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible

to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.

8. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.

9. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

16/10/2018

**Item**            **1.4**

**Ref. No.**        **9/2018/0863/NO**

**Applicant:**  
**Mr John Mills**  
**Civic Offices**  
**South Derbyshire District Council**  
**Civic Way**  
**Swadlincote**  
**DE11 0AH**

**Agent:**  
**Mr Martin Harvey**  
**Harvey & Clarke Ltd**  
**9-11 Swadlincote Road**  
**Woodville**  
**Swadlincote**  
**DE11 8DE**

**Proposal:**     **ERECTION OF AN ACCOUSTIC BARRIER AROUND THE PERIMETER OF THE MARQUEE AT ROSLISTON FORESTRY CENTRE BURTON ROAD ROSLISTON SWADLINCOTE**

**Ward:**           **LINTON**

**Valid Date**    **15/08/2018**

**Reason for committee determination**

The item is presented to Committee as the application is for a Council development.

**Site Description**

The site consists of an existing marquee which is located within a clearing of dense trees at Rosliston Forestry Centre and is currently used for a variety of leisure activities such as weddings and ceremonies, food and drink festivals, fayres and for venue hire.

**Proposal**

Consent is sought to erect a timber acoustic barrier around the perimeter of the east elevation of the marquee and 2.5m in length along the north and south elevations of the marquee. The acoustic barrier would be erected at the eaves height of the existing marquee and would reach a maximum height of 4.6m at its highest point. The acoustic barrier is proposed to reduce the level of noise that would be emitted from the marquee during evening functions.

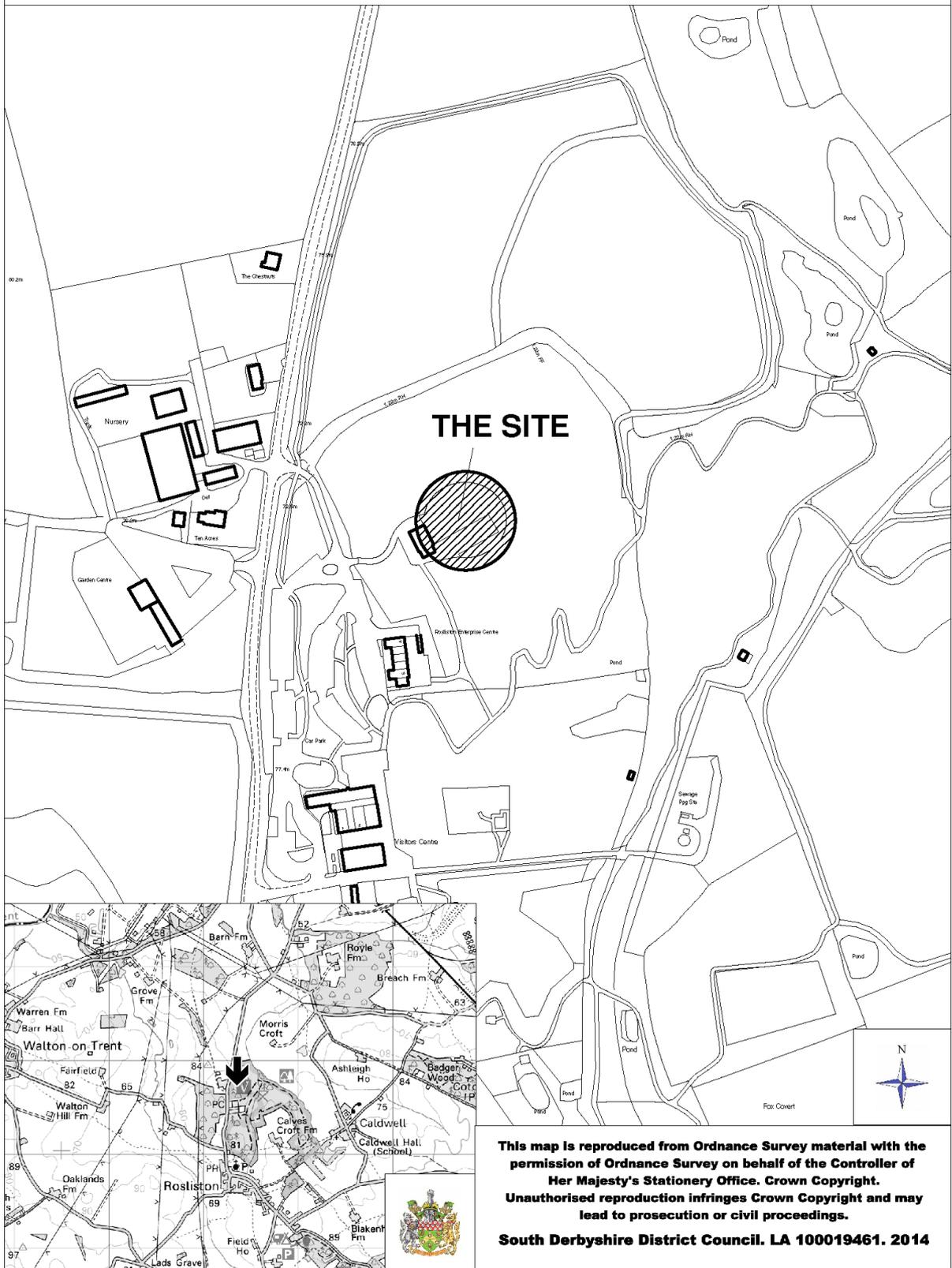
**Planning History**

The following applications have been submitted for the proposed marquee:

9/2015/1060 - Permanent siting of a marquee adjoining an existing stage and WC block in a secluded woodland setting – Approved with conditions - 25/01/2016

9/2016/1121 - The variation of condition 2 attached to planning application 9/2015/1060 for marquee to be used as an events marquee – Approved with conditions - 18/01/2017

**9/2018/0863 - Rosliston Forestry Centre, Burton Road, Rosliston, Swadlincote DE12 8JX**



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The Environmental Health Officer has raised no objections.

### **Responses to Publicity**

There have been no letter/emails of objection received from local residents.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF6 (Community Facilities), INF8 (The National Forest), INF9 (Open Space, Sport and Recreation) and INF10 (Tourism Development).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland Hedgerows).

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD

### **Planning Considerations**

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

- Principle of Development and Visual Impact
- Impact on Amenity

### **Planning Assessment**

#### Principle of Development and Visual Impact

Consent is sought for an acoustic barrier to be erected adjoining an existing structure which is in use and is currently operational. The proposed works would be an alteration to an existing building and would not create a new building or a separate structure in the countryside. Policy BNE5 of the Local Plan Part 2 allows for alterations to existing structures in a countryside location provided that they would not unduly impact on the character of the landscape and surrounding area.

The marquee is located within a dense area of tree planting and has very little wider visibility when looking into the site. The eastern elevation of the marquee is located closest the car park and would be the first elevation that would be seen when entering the clearing. The proposed acoustic fencing would be constructed out of timber and left unpainted to appear “rough cut” in appearance. The timber surround would be in keeping with the dense tree planting in the area and given the secluded nature of the site, the proposed barrier would have very little visual impact. On the basis of this, it is considered that the proposal would

not have harmful impact on the character of the area and would comply with the principles of policy BNE5 of the Local Plan Part 2.

### Impact on Amenity

The acoustic barrier is proposed to reduce the level of noise pollution from the marquee when there are functions taking place. The acoustic fencing would be erected along the eastern elevation of the marquee which is the elevation that is closest to neighbouring properties. It would be considered that the proposed acoustic fencing would have a positive impact on the amenity of nearby local residents and would significantly help to reduce the level of noise that could be experienced from the marquee. On the basis of this, the proposed works would comply with the principles of policy SD1 of the Local Plan Part 1.

### Conclusion

The proposed acoustic fencing would have a positive impact on the amenity of local residents to enjoy their properties and would have a very minimal visual impact. It would be recommended that the application should be approved with conditions.

### **Recommendation**

**GRANT** permission under regulations 3 and 4 subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan/drawing 18.0524 Sheet SK01, received on 8th August 2018; plan/drawing 18.0524 Sheet SK02, received on 8th August 2018; and plan/drawing Timber Sample Photo, received on 2nd October 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The acoustic barrier fencing shall be erected out of timber and remain unpainted and unvarnished in accordance with the submitted photos and application details, unless prior to their incorporation into the development, alternative details have first been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.

16/10/2018

**Item** 1.5

**Ref. No.** 9/2018/0925/B

**Applicant:**  
South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote  
DE11 0AH

**Agent:**  
Mr Riyan Dalal  
Franklin Ellis Architects  
The Old Pumphouse  
5 The Ropewalk  
Nottingham  
NG1 5DU

**Proposal:** THE VARIATION OF CONDITIONS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 AND 15 OF PLANNING PERMISSION REF: 9/2015/1092 (RELATING TO THE ERECTION OF 6 TWO BEDROOM HOUSES WITH ASSOCIATED PARKING GARDENS AND ACCESS) TO AMEND THE APPROVED PLANS (CONDITION 2), TO AMEND THE PROPOSED MATERIALS (CONDITION 3), THE PROVISION OF SURFACE WATER DRAINAGE DETAILS (CONDITION 4), THE PROVISION OF A CONSTRUCTION MANAGEMENT PLAN (CONDITION 5), DETAILS OF LIKELY CONTAMINATION (CONDITION 6), TO AMEND TEMPORARY ACCESS DETAILS (CONDITION 7), TO AMEND POSITION OF PLANT AND MATERIALS (CONDITION 8), DETAILS OF WHEEL WASHING (CONDITION 9), TO AMEND FOOTWAY DETAILS (CONDITION 10), THE PROVISION OF VEHICULAR ACCESS DETAILS (CONDITION 11), TO AMEND PARKING LAYOUT (CONDITION 12), TO AMEND BOUNDARY TREATMENT DETAILS (CONDITION 14) AND TO AMEND LANDSCAPING DETAILS (CONDITION 15) AT LAND AT SK2915 0614 LULLINGTON ROAD OVERSEAL SWADLINCOTE

**Ward:** SEALES

**Valid Date** 24/08/2018

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

The application is presented to Committee as this is a Council development.

#### **Site Description**

The site is located within the settlement boundary of the village of Overseal that has previously been used as allotments and for storage purposes. The site slopes in a westerly direction away from the adjacent neighbouring residential properties and is open to the countryside on the northern boundary and abutting the highway and existing residential development to the eastern and southern boundaries.

#### **Proposal**

Consent was granted under application reference 9/2015/1092 for the erection of six dwellings, in three pairs of semi-detached properties. The development consists of 100%



affordable housing. Consent is now sought to amend the proposed plans under condition 2 of application 9/2015/1092 to change the proposed finished floor levels and to vary condition 11 of application 9/2015/1092 to amend the proposed parking layout.

Details of proposed materials, surface water drainage, landscaping details, proposed boundary treatment and the position of plant and materials storage have also been submitted for consideration under the current application to address planning conditions.

## **Planning History**

9/2015/1092 - The erection of six two bedroom houses with associated parking gardens and access - Approved with conditions

## **Responses to Consultations**

The Environmental Health Officer has raised no objections to the proposed changes to the scheme and considers that the details that have been submitted would satisfy the requirement for monitoring of likely contamination through the construction period.

The County Highway Authority has raised no objections to the changes to the proposed parking layout, of which there would still be sufficient turning and manoeuvring within the site and the proposed accesses would remain unchanged. The proposed vehicular access details, the proposed wheel washing details, details of the storage of materials during the construction phase and the proposed footway details would also satisfy the requirements of conditions 7, 8, 9, 10 and 11 of planning application 9/2015/1092.

In term of impact on the River Mease, the proposed details show that surface water could be accommodated at the site and would discharge to a surface water drain in the event of excessive flow. These details would be suitable and would satisfy the details required for the discharge of surface water details as part of condition 4 attached to application 9/2015/1092.

## **Responses to Publicity**

There have been no letters/emails of objection received from local residents.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access, H1 (Settlement Hierarchy), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## Local Guidance

- South Derbyshire Design Guide SPD

## Planning Considerations

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

- Changes to the proposed parking layout
- Change to proposed finished floor levels
- Conditions details

## Planning Assessment

### Changes to the proposed parking layout

The proposed changes to the car parking layout would not affect the proposed access points approved as part of planning application 9/2015/1092. The two car parking spaces to serve plot number one, were originally proposed to the front of the dwelling (plot 1) under reference 9/2015/1092 and were to be laid out side by side. The amended parking layout submitted as part of the current application seeks to create two captive spaces to the front of the dwelling (plot 1). However, there would still be sufficient space within the site to provide a good level of turning space and manoeuvring space to accommodate this change. The amended layout would provide a good level of turning space to allow cars to leave the site in a forward gear and would comply with the principles of policy INF2 of the Local Plan Part 1.

### Changes to the proposed finished floor levels

The site is located on a gradient that slopes downwards in a south westerly direction away from the existing neighbouring residential properties. The proposed finished floor levels of the pair of semi-detached properties that are positioned closest to the immediate neighbouring residential property would be raised a further 0.1m in comparison to the original permission, the finished floor levels of the second pair of semi-detached properties would be raised a further 0.2m in height and the finished floor levels of the last pair of semi-detached dwellings would be a further 0.5m in height. The proposed changes of the land levels would still reflect the proportions and existing floor heights of the neighbouring properties and would not detract from the existing street scene. The amended floor levels would have a very minimal impact on the amenity of neighbouring residential properties due to the small increase in height in close proximity to the neighbouring dwelling. On the basis of this, it is considered that the proposed changes would be consistent with policies BNE1 and SD1 of the Local Plan Part 1.

### Conditions details

The current application would seek to create a new permission for the development and the applicant has provided details to amend the conditions that would be required for the application and as a way of discharging the relevant details.

Condition 3 attached to planning application 9/2015/1092 sought the details of materials prior to the construction of the dwellings. Details have been submitted which stipulate that the external walls would be constructed using Maxwell Bricks in an Irish Rose colour in a stretcher bond coursing and that the roof would be tiled in Fortcrete Gemini Twin Locking roof tiles in slate grey colour. These details would be considered suitable the proposed materials condition could be amended to reflect these details unless alternative materials are first submitted for approval prior to construction.

As part of condition 4 attached to application 9/2015/1092, surface water drainage details were required to be submitted. The submitted drawing number 11803-WMS-ZZ-XX-DR-C-39201-S2-P3, shows that surface water would drain to three attenuation ponds to the front of the site and excess shall drain to a surface water drain in extreme events. These details are considered to be suitable and the condition would be amended to be in accordance with these details.

Condition 5 attached to planning application 9/2015/1092 required a Construction Management Plan (CMP) to be submitted, demonstrating how the impact of the construction phase on the River Mease SAC could be mitigated. A Construction Management Plan (CMP) was submitted on 24th August 2018 which satisfies these requirements. Subject to the compliance with the submitted CMP it is considered that these details would be suitable and that the condition could be amended to reflect this information.

Conditions 7 and 8 attached to planning application 9/2015/1092 stipulated that a temporary access for the construction phase of the development and a designated area for materials storage should be submitted for approval. Details have been submitted showing the use of two of the proposed accesses for the construction traffic; one for incoming vehicular traffic and one for vehicular traffic leaving the site and a separate entrance for pedestrians to the east of the site. An area to the south west of the site has been shown for the storage of materials. It would be considered that subject to the highway being kept clear at all times, that these details would be suitable and would satisfy the requirements of these conditions and the proposed conditions could be amended accordingly.

Amendments are sought to the proposed boundary treatment that were approved as part of planning application 9/2015/1092. This would include a 0.925m high retaining wall to be erected to the south western side of the site to accommodate the increase in land levels and with the proposed 1.2m close board fencing to be erected on top of this. The retaining wall would be constructed out of Maxwell Bricks in an Irish Rose colour in a stretcher bond coursing which would match the proposed dwellings. Given the height of the proposed retaining wall, it would not be considered that this would have a harmful visual impact or would result in creating an urbanising effect on the approach to the village and would comply with the principles of policy BNE1 of the Local Plan Part 1. On the basis of this, condition 14 attached to planning application 9/2015/1092 could be amended to reflect these new details.

As part of condition 15 attached to planning application 9/2015/1092, details of the proposed landscaping scheme for the development were required prior to the occupation of the proposed dwellings. Details have been submitted as part of the current application which show the proposed areas of hardstanding and the surfacing materials, lawn areas, the retention of the existing hedgerow, the attenuation basins to the front of the site and the areas of planting. These details would be suitable to be implemented prior to the occupation of the dwellings and it would be suitable for the condition to be amended accordingly.

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

## **Recommendation**

**GRANT** permission under regulations 3 and 4 subject to the following conditions:

1. The development permitted shall be begun before the 1st March 2019.

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings LRO-FEA2485-EX-XXX-DX-A-00001 Rev C; LRO-FEA2485-EX-XXX-DX-A-00002 Rev C, LRO-FEA2485-BU-ZZZ-DP-A-15000 Rev C; LRO-FEA2485-BU-ZZZ-DP-A-15001 Rev B; LRO-FEA2485-EX-XXX-DX-A-05000 Rev D; LRO-FEA2485-EX-XXX-DX-A-05001 Rev D; LRO-FEA2485-EX-XXX-DX-A-05002 Rev D; and LRO-FEA2485-EX-XXX-DZ-A-25000 Rev D; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. The walls of the dwelling houses shall be constructed using Maxwell Bricks in an Irish Rose colour in a stretcher bond coursing and the roof shall be tiled in Fortcrete Gemini Twin Locking roof tiles in slate grey colour, unless prior to their incorporation into the development, alternative details are first submitted to, and approved in writing by the Local Planning Authority.

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

4. Prior to the occupation of the dwellings, all surface water drainage details shall be constructed in accordance with the approved application drawings (drawing number 11803-WMS-ZZ-XX-DR-C-39201-S2-P3), unless prior to their incorporation into the development, alternative details are first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard and improve the water quality within the River Mease Site of Special Scientific Interest (SSSI)/Special Area of Conservation (SAC).

5. The proposed development shall be carried out throughout the construction period in conformity with the submitted Construction Management Plan (CMP), received on 24th August 2018, unless an alternative Construction Management Plan is first submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved details.

Reason: To safeguard and improve the water quality within the River Mease Site of Special Scientific Interest (SSSI)/Special Area of Conservation (SAC), noting that initial works have the potential for unacceptable impacts unless appropriately controlled.

6. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented to the satisfaction of the LPA.

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

7. Before any other operations are commenced, temporary accesses for construction purposes shall be formed to Lullington Road, laid out, constructed and provided with 2.4m x 47m visibility splays in each direction in accordance with the access details shown on plan/drawings; LRO-FEA2485-EX-XXX-DX-A-05002 Rev D and the Site Setup and Logistics Plan, received on 24th August 2018. The sightlines being cleared of all obstructions greater than 1m in height (0.6m in the case of vegetation),

maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interests of highway safety, noting that initial works have the potential for unacceptable impacts unless appropriately controlled.

8. Before any other operations are commenced, the space provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of good vehicles, parking and manoeuvring of site operatives and visitors vehicles, shall be laid out and constructed in accordance with plan/drawing; the Site Setup and Logistics Plan, received on the 24th August 2018. Unless prior to the layout of the storage and manoeuvring area, alternative details are first submitted to and approved in writing by the Local Planning Authority. The approved layout shall be maintained throughout the contract period with all storage of materials and wheel washing clear of the highway.

Reason: In the interest of highway safety, noting that initial works have the potential for unacceptable impacts unless appropriately controlled.

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

Reason: In the interests of highway safety.

10. Prior to the first occupation of any dwelling, a new footway shall be provided fronting the application site. The footway shall be constructed at the rear of the existing highway, have a width of 2m and be constructed to the adoption standards in accordance with Derbyshire County Council's specification for adopted highways. For the avoidance of doubt, the remaining highway margin shall be retained as grass verge and any damage caused during construction phase shall be reinstated prior to the first occupation.

Reason: In the interest of highway safety and to achieve safe access.

11. Prior to the first occupation of any dwelling, the new vehicular accesses shall be formed to Lullington Road, laid out and constructed in accordance with Derbyshire County Council's specifications for adopted highways.

Reason: In the interest of highway safety.

12. Prior to the first occupation of any dwelling, the car parking and manoeuvring space as shown on the approved drawings shall be laid out and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

13. Any gates shall be set back at least 5m from the highway boundary and open inwards only.

Reason: In the interests of highway safety.

14. The proposed boundary treatment as shown on plan/drawings LRO-FEA-EX-XX-DP-A-1800 Rev A; LRO-FEA-EX-XX-DP-A-1801 Rev A and LRO-FEA-EX-XX-DD-A-6900 Rev A; shall be erected and planted prior to the first occupation of the proposed dwellings, unless prior to their incorporation into the development, alternative details are first submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved details prior to the first occupation of the dwellings.

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

15. The landscaping scheme as shown on plan/drawings; LRO-FEA-EX-XX-DP-A-1801 Rev A and LRO-FEA-EX-XX-DP-A-1800 Rev A; shall be planted prior to the first occupation of the proposed dwellings, unless prior to their incorporation into the development, alternative details have first been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be planted in accordance with the approved details.

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

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

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

#### Informatives:

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

2. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification should be given to the Department of Economy and Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Councils website:  
[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp) email [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone call Derbyshire on 01629 533 190.

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

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

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

level of cleanliness.

6. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the Area Development Manager). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

7. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).

8. It would be advisable to ensure that any new hard surfaces are constructed of permeable materials to control and contain surface water runoff.

05/06/2018

**Item** 2.1

**Ref. No.** 9/2018/0269/FM

**Applicant:**  
Harpur Crewe Llc  
C/O Agent

**Agent:**  
Mr S Raju  
R3design Developments Ltd  
The Glasshouse  
9 Hallam Close  
Littlethorpe  
LE19 2LA

**Proposal:** DEMOLITION OF EXISTING GARAGE AND PART OF FRONTAGE WALL AND CONVERSION OF EXISTING OUTBUILDING TO FORM A RESIDENTIAL DWELLING AT 31 CHAPEL STREET TICKNALL DERBY

**Ward:** REPTON

**Valid Date** 05/03/2018

### **Introduction**

*Members will recall deferring these applications at the meeting on the 5 June 2018 to allow for a site visit to take place, and that an independent structural survey of the building be commissioned and undertaken.*

*The Structural Report has now been received, and where appropriate the report has been updated with any new text provided within the report in italics.*

*Members should be aware that the Council has received appeals against the two applications based on the failure of the Council to determine the applications within the appropriate period. As the determination of the proposals is now in the hands of the Planning Inspectorate this report will ask members to consider how they would be minded to determine the application given that opportunity. The deadline for the Councils Statement of Case is the 23 October 2018.*

*This application is to be considered jointly with an application for conservation area consent 9/2018/0289 below.*

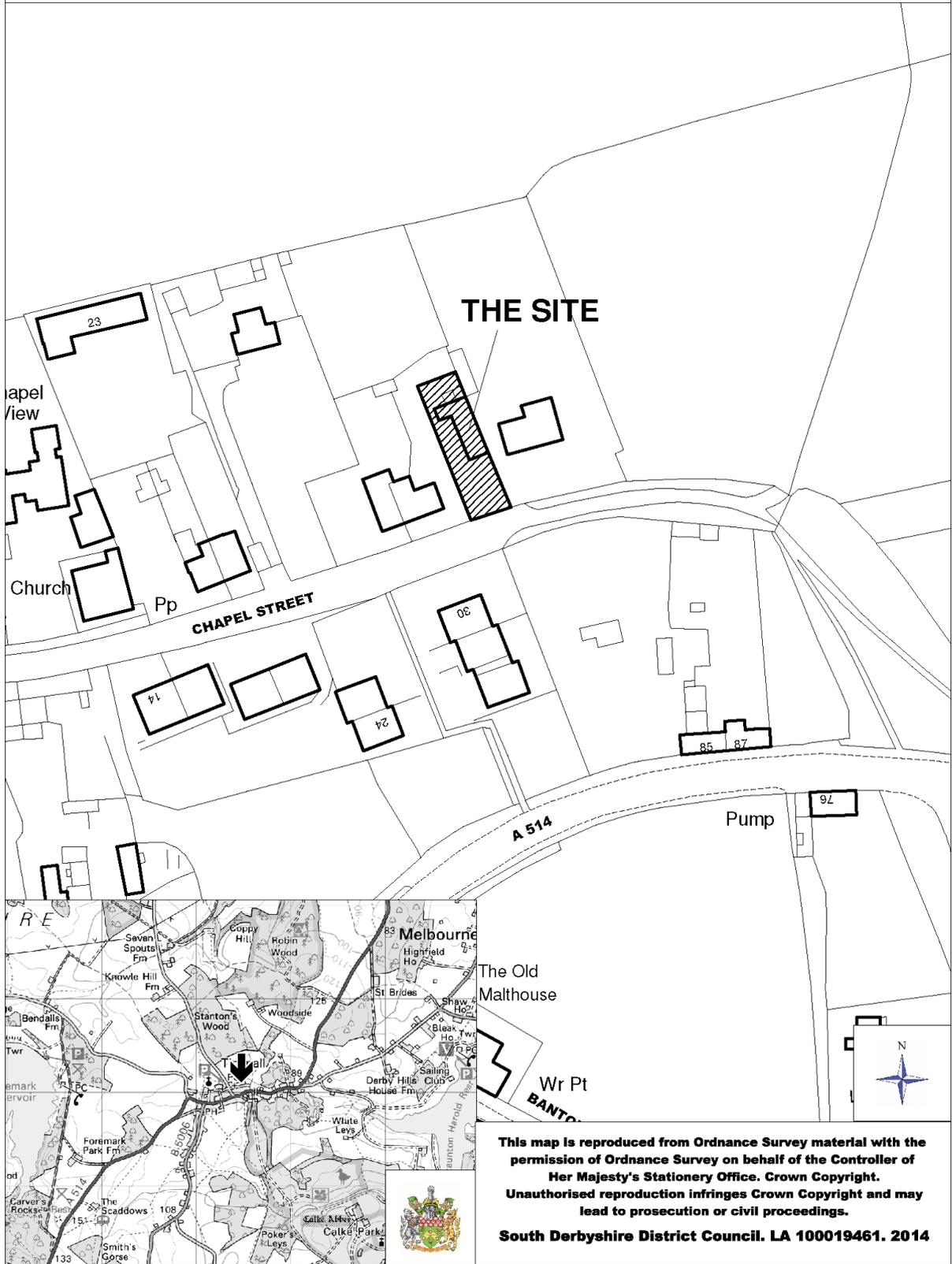
### **Reason for committee determination**

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

### **Site Description**

The application site is located to the north eastern part of the village, and currently forms part of the rear garden to 31 Chapel Street. The outbuilding to which this application relates is a single storey building constructed in red brick with sections of stone under a plain clay

9/2018/0269 and 0289 - 31 Chapel Street, Ticknall, Derby DE73 7JY



tiled roof. The building is set back from Chapel Street behind a flat roofed garage and the building forms part of the boundary of the site with the adjacent 35 Chapel Street.

The site is bound to the north, east and west by existing domestic boundaries, with what is now the extended domestic curtilage of 29 Chapel Street beyond the northern boundary of the site. To the south is Chapel Street beyond which lie a number of bungalows with the main road though Ticknall further to the south which runs parallel to Chapel Street.

The application site is located within the settlement boundary for Ticknall as identified within the Local Plan Part 2, and lies within the Ticknall Conservation Area. Whilst the building itself is not identified within the Conservation Area Character Statement the adjacent dwellings (Nos 29, 31 and 35) are identified as other buildings which contribute positively to the special architectural or historic character of the conservation area.

## **Proposal**

The proposal is submitted in two parts, and as such has resulted in two applications. The first being an application for conservation area consent for the demolition of part of the front boundary wall to the site, and the second for planning permission for the conversion of the building.

The proposal is for the demolition of the existing garage and the conversion of the existing brick built building into a one bedroom dwelling. The existing building is single storey and L-shaped in plan. Internally the outbuilding is sub-divided by brick walls into three separate spaces, with the remnants of a chimney apparent. The proposal includes the creation of a new domestic curtilage by sectioning off part of the existing garden for No 31. An extended car parking area is proposed to serve the existing and proposed dwelling.

## **Applicant's supporting information**

A Planning and Heritage Statement with Design & Access Statement describes the development proposals, the site and its historical background. The development plan policies are considered and summarised as are the main relevant elements of the NPPF. The principle of development is considered to be appropriate due to the site's location within Ticknall, identified by the local plan as a Local Service Village where new residential development is considered to be appropriate. The statement highlights the proposals' benefits in terms of offering an economically viable means of securing the long term future of the building as supported by policies BNE2 and BNE10. The findings of the structural report are noted insofar as the existing building is considered to be capable of conversion into a dwelling with alterations to the building seeking to retain the overall character and appearance of the building through the re-use of existing openings (where possible). The statement notes that the building is not in an isolated location where more rigorous standards are applied to conversions. The amenity of neighbouring dwellings is considered to be protected, with 80 sq.m of amenity space proposed for the dwelling, with existing windows and openings re-used where appropriate. The building is not considered to make a particularly strong contribution to the appearance of the area due to being set back from the street frontage and largely hidden by an existing flat roofed garage. However, due to the building's overall age and association with the neighbouring cottage the building illustrates an aspect of the area's historical development and contributes to the area's overall character. The building is considered to be underutilised and its loss through neglect would be contrary to policy BNE10, the proposals seek to secure the long-term preservation of the building offering a sympathetic and considered approach to the conversion of this building that will minimise harm to the building and to the overall character and appearance of the area. The removal of part of the front boundary wall is not considered to be out of context with the character of Chapel Street, creating a balance in the immediate street scene akin to the lack

of boundary wall to the frontage of No 29 Chapel Street. Overall these proposals are intended to bring forward a high quality, sustainable residential development, that makes the most beneficial use of this under-utilised building without compromising the quality or the amenities of the surrounding area and the proposal would not harm the character or appearance of the Conservation Area or the setting of the designated heritage assets within the vicinity of the site.

The Structural Report accompanying the application assess the existing building and notes the following points; The sagging roof and purlins; Perishing mortar in places, with some areas of spalled brickwork; End gable walls being only 100mm thick; No signs of foundation movement; and that the trial pit excavated shows a sandstone foundation. Recommendations are made that; If the reduction in floor level exceeds 425mm from the existing internal floor level is likely to require underpinning; All existing roof rafters and purlins should be replaced; Timber trusses require further inspection if they are to remain; Fixing of ridge beams to prevent the roof spreading; Strapping required at all junction of external walls; and strengthening of the end gable walls as part of the conversion. The report concludes that subject to the remedial works being carried out the building is suitable for conversion from the structural view point.

A letter commenting on the responses received on the application has been submitted on behalf of the applicant. The letter comments on the objector's locus being an occupier adjacent to the development, the comments on the structural condition of the building and its ability to withstand the conversion being anecdotal given the lack of engineering qualifications and expertise. The overall support for the proposal in the development plan for development within settlement boundaries is noted and the fact that the development clearly comprises sustainable development. The letter notes that the only empirical evidence before the Council is the Structural Report prepared by a Chartered Engineer and Member of the Institute of Civil and Structural Engineers which concludes that the building is suitable for the proposed conversion works subject to undertaking a number of recommended remedial measures;

“The building does not require extensive demolition and there are no concerns regarding foundation movement. Therefore we conclude that the building is suitable for the proposed conversion works from the structural viewpoint.”

From a planning viewpoint, this evidence should be more than sufficient to satisfy the Council, with any matters of detail, including if necessary method of construction being capable of being dealt with by condition. In terms of the removal of a section of wall there is no evidence of the historic importance of the wall. The wall is not statutorily listed and no direct reference is made to it (or the wider application site) within the Conservation Area Character Statement, the same comment applies to the removal of the chimney. The minimal harm (if any) caused by the removal of the chimney will be more than outweighed by the public benefits outweighed by the public benefits of bringing the building back in to beneficial use and the demolition of the garage.

### **Planning History**

No determined applications relevant to the current proposals.

### **Responses to Consultations**

The Highway Authority consider that due to Chapel Street not being an adopted road any off-site car parking is likely to cause an inconvenience to local users rather than a highway safety issue. Given this matter the Highway Authority do not consider that an objection could be sustained and therefore do not object to the proposal.

The Development Control Archaeologist considered that should the building be converted a pre-conversion programme of building recording should be undertaken and secured by condition.

### ***The Structural Survey undertaken at the request of Members***

*The survey carried out was a visual inspection of the buildings, which also included a number of trial pit investigations. The report notes that the building has suffered from neglect and poor maintenance over the years and recommends that as a minimum even if the conversion does not proceed, a maintenance plan to ensure future stability of the building should be undertaken. The following issues and deficiencies were identified in the existing building:*

- a) The implications of the slope of the existing ridge and eaves lines and the alignment of the front and rear walls.*
- b) The adequacy of the existing roof structure.*
- c) Damaged and displaced roof tiles, weathered bricks and mortar that allow water to penetrate into the building interior – the most likely cause for softening of the clay bed that has been provided beneath the foundations and the leaning walls.*
- d) The existing leans and distortion of the perimeter walls.*
- e) Poor construction practice used for historic alterations to the building.*
- f) Cracking in the cross walls and separation between the cross walls and the front and rear walls.*
- g) The existing foundation formation levels and the levels of the underlying bedrock.*

*The report concludes with a number of recommendations that would need to be addressed in any works for the conversion of the building:*

- a) The method and sequence for underpinning the existing foundations, noting that extensive underpinning is likely to be required and that due to the proposed reduced ground floor and external ground levels this is likely to require break-out of the bedrock and downward extension of some walls. The proposals would need to address temporary wall stability including the implications of vibration from break-out of the bedrock as well as the sequence of working.*
- b) The method by which the existing sloping front and rear walls would be adapted to achieve the proposed level eaves detail will need to be identified, noting that it is the structural engineer's opinion that rebuilding of the front and gable walls and partial rebuilding of the rear wall would be the best approach to achieve a satisfactory outcome.*
- c) The approach to rebuilding and/or satisfactory remedial support of the leaning and distorted perimeter walls that are to be retained, noting that without alternative support (eg from the roof) the stability of some walls would seem to be either borderline or inadequate.*
- d) The implications of the increased height of retained earth on the perimeter walls arising from the reduced level dig for the internal floor construction should be assessed, noting that to do this the proposed external ground and finished floor levels, and the depth of reduced level dig would need to be identified. In addition the requirements for new retaining walls to the north of*

*building should be identified, as should the drainage of the sunken yard in this area.*

- e) *The proposed construction of the perimeter cavity walls and of the ground floor should be identified, ensuring breathable construction to minimise the risk of future damp problems.*

*The report identifies the need for a new roof to be provided for the building although this was also a recommendation of the previous survey undertaken by the applicant. The report notes that due to the sloping brickwork on the front and rear elevations it would be difficult to achieve an aesthetically pleasing detail for the level eaves proposed. As a result of this and the stability concerns, the report recommends that the front wall would require reconstruction. The stability concerns are further highlighted by the likely difficulty that would occur in underpinning the front wall and also the two gable walls which are also recommended to be taken down and new walls rebuilt on new foundations. The report goes on to also recommend that the upper section of the rear wall is reconstructed. This would result in the loss of a significant majority of the building in order to successfully provide for a building suitable for occupation as a dwelling.*

### **Responses to Publicity**

Ticknall Parish Council objects to the proposal for the following reasons.

- i) The Parish Council objects to the demolition of part of frontage wall.
- ii) The Parish Council requests that you pay attention to the detailed letter, and his expertise on the subject that you have received from Mr. B. Wolsey on the matter.
- iii) The Parish Council requests that the Planning Application goes to the Planning Committee for a decision.

3 objections have been received, raising the following concerns;

- a) Structural Survey; Does the building have a sandstone foundation? Insufficient information has been submitted to demonstrate that this is true. As a result of gardening experience adjacent to the site earth below the top soil is generally sedimentary rock such as that detailed within the submitted structural report and this questions whether there is a foundation for the building, without which it would undermine the consultants conclusions that the building is sound and capable of conversion. The internal reduction in floor levels by up to 600mm in places would leave part of the perimeter walls standing on unsupported ground. In addition, the chances of there being a solid sandstone foundation as shown on the survey drawings on the eastern wall is unproven and highly unlikely.
- b) The Proposals; Whilst the submitted survey is accurate, the proposed drawings indicate a horizontal eaves and not one rising with the ground as shown on the survey. The increase in heights, will need new brickwork and likely 'bodged brickwork' that is not appropriate for a conservation area. The reduction in ground levels internally of up to 250mm which with the required internal slab would be some 600mm of excavated depth, and 750mm externally. The excavation works outside the building will be below the level which the brickwork commences it is not clear how new brickwork can be inserted below the level of the existing, which in any event would not be allowed under Building Regulations.
- c) Why does this all matter?; What has been submitted is not possible to execute. No method statement has been submitted so it is assumed that during the building works the external walls will be in danger of collapsing which if underpinning is commenced then collapse of the building is inevitable. As such this cannot be considered to be a

conversion and the proposals will actually result in the destruction of the very heritage asset that they seek to protect.

- d) Visual Impact and Impact upon the Conservation Area; The demolition of a section of wall adjoining No 35 Chapel Street, which appears to have been done to facilitate access to two parking spaces. However, with the demolition of the garage there appears no apparent justification for the removal of this historically important wall and as such there is no justification for its demolition. The justification for this removal refers to balancing the open area to the west of No 29, this area has been open since before the designation of the conservation area, and these areas cannot be considered alike and the justification does not stand up to scrutiny. There are a number of errors in the reports including reference to the removal of the cherry tree which appears to be retained and reference to the building of a new kitchen. The creation of an independent dwelling has forced the unnecessary use of fencing and walling along the new boundary which are alien features in the conservation area. The removal of the chimney is not explained or justified. The demolition of the existing garage on the site is one part of the proposals which can be supported.
- e) Impact upon on-street parking and highway safety; The proposal makes no provision for additional off-street parking, as such the potentially generated two additional spaces required will result in on-street parking on Chapel Street. There is already an acknowledged parking problem, most of which is as a result of the Council's failure as landlord to make any provision for its own tenants in the bungalows. There is therefore considerable competition for spaces especially at weekends when visitors attempt to park. There are no turning facilities on Chapel Street.
- f) Historical Significance of the building; There are a number of outbuildings in Chapel Street and this is the biggest, most prominent and potentially important due to its possible previous uses either as a washhouse, blacksmiths or Brewhouse or any number of trades that were carried out in Ticknall and this proposal would result in the unwarranted loss of this historical asset.
- g) Residential amenity; The building would provide a very poor standard of amenity for the prospective occupier with little outlook and a minuscule garden. The fencing and obscure glazing to the kitchen compounds this unsuitability. There would be little privacy between the new and existing dwelling which itself would be left with an awkwardly configured garden.
- h) Putting the building to a good viable use; The existing building is only unused as the applicants emptied it last summer, and could continue to be used as an ancillary structure to no 31 as now the residents have no external storage and the proposal will result in more unwarranted buildings.
- i) Protected species; A reports covering all protected species is an omission, at the very least some work should have been done on the possibility of nesting birds being present.
- j) Why two applications?; The reasoning for this would be to allow one application to run whilst appealing non-determination after 8 weeks. This displays a lack of confidence in the local planning authority and a disdain for its competence in determining the application.
- k) No consideration for the already difficult parking on Chapel Street
- l) The proposal would not be an asset to the Conservation Area;
- m) Impact of the build process on access to the dwellings on and accessed from Chapel Lane.

*1 additional letter of objection has been received from one of the original objectors on the application following the receipt of the Council commissioned Structural Report. The response raises the following points:*

- a) *The structural engineers report supports and echoes the points and objections raised in previous correspondence. Little or no weight or regard should be given to the applicant's structural report and the decision should be based on the independent report commissioned by the Council.*
- b) *The building is clearly not capable of conversion in the manner proposed.*
- c) *The proposal requires all but the rear wall to be rebuilt, the proposal ceases to be a conversion and becomes a rebuild. The current proposal is incapable of being carried out.*
- d) *It is misleading to say that a replacement building would be equally acceptable as this would result in the loss of an acknowledged heritage asset.*
- e) *The only works necessary to secure the long term future of the building would require stitching the building together, and dealing with surface water rather than extensive and intrusive works.*
- f) *Following the structural report it is clear that the appearance of the building will change, as the report considers that works to the front wall will be difficult to achieve to an aesthetically pleasing detail.*
- g) *The overall approach to this application needs to be re-assessed and re-balanced – there are elements of the proposal which are clearly detrimental: the unwarranted loss of the front wall, the awkward configuration of the resultant gardens, overlooking, lack of car parking provision and an increase in traffic at an inadequate junction.*
- h) *The required balance of public benefits against the loss of or damage to heritage assets is now altered and the balance comes down in favour of protecting the heritage asset and retaining the structure.*

1 letter of support has been received, raising the following points;

- a) This application for infill is supported which would remove a derelict eyesore and is compliant with Parish Council policy to support sympathetically designed infill in preference to new sites in a conservation area.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF8 (The National Forest); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport); BNE2 (Heritage Assets)
- 2017 Local Plan Part 2: BNE10 (Heritage); H28 (Residential Conversions); BNE7 (Trees, Woodland and Hedgerows); SDT1 (Settlement Boundaries and Development).

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD

- Ticknall Conservation Area Character Statement (CACS)

## Planning Considerations

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

- The Principle of development;
- *Does the proposed development constitute a conversion?*
- Heritage and design matters;
- Highway safety
- Other matters

## Planning Assessment

### The principle of development

The application site is located within the settlement boundary for Ticknall as defined by the Local Plan Part 2, with Ticknall itself identified by policy H1 as a Local Service Village. Within settlement boundaries the principle of new residential development (including conversions) is considered to be acceptable.

As the site is located within the Ticknall settlement boundary the detailed requirements of the residential conversions policy (H28) is not directly relevant as this policy specifically relates to conversions outside of the identified settlement boundaries. Therefore the suitability of the building for conversion does not in principle stand or fall based on the building being suitable for conversion without extensive alteration or rebuilding as a new or replacement building would also be acceptable in principle (*subject to considerations of the merits of the existing building as a heritage asset and the merits of any scheme for a replacement building*).

### Does the proposed development constitute a conversion?

*The Structural Report commissioned following the deferral of this application is clear that on the balance of probability a significant proportion of the existing building would need to be demolished and re-built in order to facilitate the provision of a suitable dwelling. The question here is whether the application as applied for can actually be implemented; i.e. would the development actually comprise a conversion or would the necessary reconstruction works result in the proposal no longer comprising a conversion but a new build?*

*The structural works considered necessary to facilitate the provision of a suitable habitable building are identified as the replacement of the roof, front wall, two gable end walls and the upper proportion of the rear wall. The extent of these necessary works are considered to be over and above what could reasonably be considered to constitute a conversion and as such the development as proposed is incapable of being implemented, and as such the application cannot be approved as applied for.*

*The matter as to whether the remedial works deemed necessary in order to facilitate the residential use of the building are acceptable are not a matter for this current application as the works necessary go beyond the scope of the current application and would require a new planning application or the submission of necessary amended plans and a scheme to deal with the necessary remedial and reconstruction works etc. and the necessary re-consultation undertaken. However, as detailed above in the original report, there are not likely to be any objections in principle to the reconstruction of or replacement of the building but consideration would need to be given as to whether the loss of the existing building, a heritage asset in itself, would be acceptable.*

## Heritage and design matters

The principal character of Chapel Street is defined by the regular pattern of evenly sized plots along its northern side, to its southern side there are generally unsympathetic modern bungalows. The subject building is set back from the road frontage by around 12m and is somewhat hidden by the more significant buildings of Chapel Street (Nos 29, 31 and 35) which are identified by the CACS as buildings which contribute positively to the special architectural or historic character of the conservation area and an existing flat roofed garage such that the building is not a prominent building within the conservation area.

The building is currently in a rather poor state of repair with little work having been undertaken on the building in the recent past. The building is likely to be of late 19<sup>th</sup> Century origin has some historic interest such that it is considered to be an undesignated heritage asset. Its original use is for all intents and purposes a mystery but it could have been used to keep animals or some form of local industry likely associated with the main dwelling. Whilst undesignated it is considered appropriate that the building is recorded in its current state of repair.

The application includes for the demolition of the existing garage to the south of the outbuilding. The garage is of blockwork construction with a mono-pitch roof and is of no architectural or historic interest and generally detracts from the character and appearance of the conservation area, such that its demolition would be a positive enhancement of the area better revealing the traditional building behind it.

The application is supported by a detailed survey of the building and a structural report. The report concludes that the existing building is capable of conversion subject to remedial works identified which includes re-pointing, some underpinning and replacing badly spalled areas of brickwork, some rebuilding and re-roofing of the building. These works are considered necessary in order to preserve the building and allow for its re-use for primary living accommodation. The subject of this survey and the suitability of the building for conversion and the proposed conversion works have come under significant criticism in one of the objections received. It does need to be noted at this point that the structural stability of the building and its ability to withstand the conversion is not a requirement of the relevant planning policies as it would be for conversions outside of settlement boundaries but the fact that the application is for the conversion of the building rather than a new building results in the ability of the building to be converted being a material consideration as is the desire to retain this undesignated heritage asset. The fact that areas of underpinning (where the internal floor is to be lowered), reconstruction and repointing are proposed is not considered to be a reason to object to the development but rather a reason to support the proposal. These works would secure the long term retention of this building within the conservation area. In order to ensure that the works are carried out as proposed it is considered appropriate to condition a method statement for the conversion works themselves to ensure that the main fabric of the building is retained. *Clearly in light of the commentary in the previous section this is no longer deemed feasible.*

The external appearance of the building would remain relatively unchanged, the external brick facade would be cleaned, damaged bricks replaced as required, the re-building of minor elements of the building which have slipped (including an area to the south-western corner of the building), and the re-use of existing Staffordshire blue plain clay tiles in the re-roofing of the building albeit on new roof purlins and rafters. The existing openings are re-used with some minor alterations to the detail proposed such as the enclosing of an existing door and its replacement with a window, with infilling and minor alterations to openings, the existing chimney is removed and roof lights have been added to two of the less visible elevations of the building.

The proposed conversion is considered to be generally sympathetic to the character of the building, and subject to conditions controlling the detail of the windows, doors, rooflights, and repairs preserves the character and appearance of the conservation area and the building would not be altered or reconstructed to such an extent that the intrinsic character of the existing building would be lost rather the building would be preserved and its conversion would enhance the character of the conservation area. *Whilst a suitably detailed building could be provided, it would clearly result in the loss of an undesignated heritage asset. The loss of such an asset and its replacement is a very different question to that of the suitability of the building for conversion, the question posed by this application. In the event that the application changed or was amended beyond its current scope to include the alterations / reconstruction of the building consideration would need to be given to the loss of the building and whether this would constitute an unacceptable level of harm to the conservation area.*

The development is served from Chapel Street, and a section of the existing front boundary brick wall, some 1.2m high, would be demolished to allow the creation of a new extended parking area. There are varied boundary treatments along Chapel Street with a mixture of brick walls, timber fencing and soft landscaping to denote and differentiate between the public and private realm. While the proposal would result in the loss of part of the wall, the majority of the wall would be retained and the provision of a wider gap between boundaries is not uncharacteristic along this street. The removal of part of the boundary wall is therefore not considered to result in substantial harm to the character or appearance of the area and the historic sense of enclosure to front boundaries in the area would be maintained to an appropriate degree. In addition, areas of hardstanding are also found to the front of dwellings and with the majority of the front garden retained the proposed degree of parking and hardstanding is not considered to be substantially or significantly harmful.

The existing garden area to no. 31, Chapel Street is to be sub-divided to provide private amenity/garden space for the proposed dwelling as well as no. 31. A high level close boarded fence already exists between the house and the garage which closes off the site with the majority of the building obscured by the fencing and existing garage. The proposed low level retaining wall and post and rail fence would encourage a degree of inter-visibility between the existing building and the street scene opening up currently closed views of the building from the public realm.

The ability to appreciate key groups of historic buildings and key views within the conservation area would remain unchanged as a result of the proposal, and the demolition of the existing flat roofed garage would enhance the character of the conservation area. Overall the proposal is not considered to cause detrimental harm to the character or significance of the Ticknall Conservation Area indeed the conversion itself is considered to enhance the character of the area though securing the retention of the building itself and better revealing it beyond the realms of the site itself. The demolition of part of the frontage boundary wall would result in harm to the character and significance of the conservation area but this harm is considered to be less than substantial such that the public benefits resulting from the creation of a new dwelling through bringing the building back in to beneficial use and the albeit limited public benefits created though the building supply chain would outweigh this limited less than substantial harm identified. *As no scheme for the replacement of the building is for consideration here and as such it is not possible to reach a conclusion on the harm that would be caused to this undesignated heritage asset (the building itself) although the existing building would be recorded, and it may be possible that a suitable re-construction or replacement building could be provided that would not result in such a level of harm to the significance of the conservation area that the public benefits would be outweighed.*

Highway safety

The application as detailed above includes the removal of a small section of wall in order to extend the existing parking area. The proposed parking area whilst shown with two spaces measures at its narrowest 6m x 10.8m which would be sufficient to accommodate 4 parked cars albeit ever so slightly short of the required minimum (noting that the Councils minimum standards for car parking spaces is 2.4m x 5.5m with an extra 0.5m required where spaces abut a wall as is the case here). As Chapel Street is a private highway and not adopted any off-site parking (which would be unlikely given the space available) would cause an inconvenience to local users of Chapel Street rather than result in a highway safety issue. As such the proposal is not considered to result in any highway safety concerns and as such complies with the requirements of policy INF2.

### Other matters

Residential amenity: As the site is surrounded by existing dwellings consideration has been given to the impact of the proposal on the amenity of these dwellings in accordance with the requirements of policies SD1 and BNE1, and the guidance contained within the South Derbyshire Design SPD. Due to the separation distances between the proposal and adjacent dwellings, the single storey nature of the proposed conversion, and the proposed boundary treatments no issues of overlooking have arisen. Whilst the development would result in a reduction in the amenity space for the existing dwelling sufficient space is retained that would allow for usual domestic activities to take place in comfort.

Protected Species: The subject building has been visited (including an evening activity visit) and assessed by Derbyshire Wildlife Trust as having a very low suitability to support roosting bats with no activity. Given there being no reasonable likelihood of roosting bats using the building no specific bat survey of the building was deemed necessary.

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

### **Recommendation**

*That members **object** to the proposed development and recommend that the appeal is dismissed for the following reason:*

- 1. Following the undertaking of an independent structural survey of the building it is clear that a substantial proportion of the building would need to be demolished and re-constructed: the roof structure, front and both gable walls, and part of the rear wall. Due to the extent of the required re-construction it is considered that the application as submitted cannot be approved as the conversion of the building is not now feasible and falls outside the scope of the application as submitted.*

05/06/2018

Item 2.2

Ref. No. 9/2018/0289/CC

**Applicant:**  
Harpur Crewe LLP  
C/O Agent

**Agent:**  
Mr S Raju  
R3design Developments Ltd  
The Glasshouse  
9 Hallam Close  
Littlethorpe  
LE19 2LA

**Proposal:** RELEVANT DEMOLITION CONSENT FOR DEMOLITION OF EXISTING GARAGE AND PART OF FRONT BOUNDARY WALL AT 31 CHAPEL STREET TICKNALL DERBY

**Ward:** REPTON

**Valid Date** 05/03/2018

This application is submitted pursuant to the proposed demolition of part of the frontage boundary to facilitate the provision of an enlarged parking area, and the existing garage on the site. The merits of the case are examined in the companion application for the conversion of the building to a dwelling under 9/2018/0269 above. *On the advice of the Council's Conservation Officer this application can go ahead as it is not considered to be harmful to the significance of the heritage asset as a stand alone development.*

***Recommendation***

***GRANT*** relevant demolition consent subject to the following condition:

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

*Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).*