

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

**SECTION 1: Planning Applications  
SECTION 2: Planning Appeals**

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

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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 1995 (as amended) responses to County Matters and submissions to PINS.**

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

25/03/2014

**Item**            **1.1**

**Reg. No.**        **9/2013/0643/OS**

**Applicant:**  
**HALLAM LAND MANAGEMENT**  
**C/O AGENT**

**Agent:**  
**STEVEN LOUTH**  
**TURLEY ASSOCIATES**  
**9 COLMORE ROW**  
**BIRMINGHAM**  
**B3 2BJ**

**Proposal:**        **OUTLINE APPLICATION (ALL MATTERS RESERVED**  
**EXCEPT FOR ACCESS) FOR RESIDENTIAL**  
**DEVELOPMENT OF UP TO 40 DWELLINGS WITH**  
**MEANS OF ACCESS FROM LONGLANDS ON LAND AT**  
**SK3126 1562 LONGLANDS REPTON**

**Ward:**            **REPTON**

**Valid Date:**     **15/08/2013**

**Reason for committee determination**

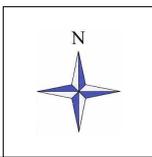
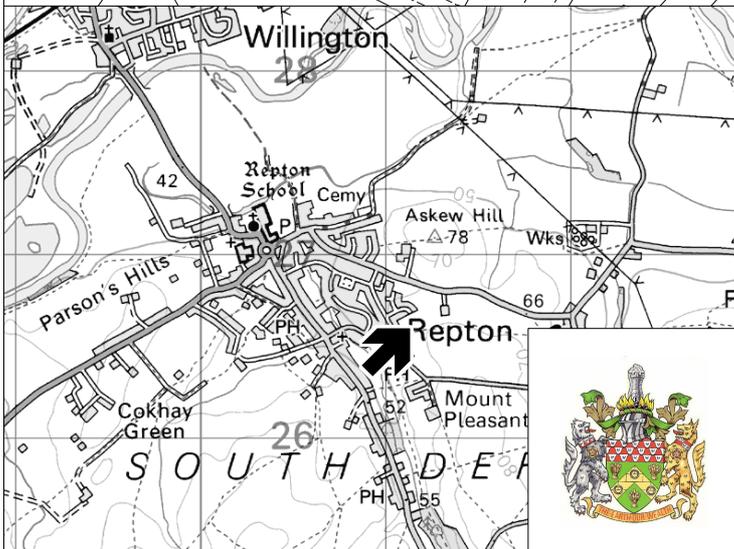
The item is presented to committee because this is a major development not in accordance with the Development Plan and having received more than two objections.

**Site Description**

The site extends to approximately 2 hectares and is presently put to horse grazing pasture. It is largely a greenfield site just beyond the eastern edge of the village, carrying a stable block, access track and World War II pillbox. It is bordered by properties and their rear gardens along Longlands, Hill View and Springfield Road, with the rear boundaries made up by a mix of hedgerow, close boarded fencing and post and wire fencing. These frame the south-west and western edges of the site whilst a well-established hedgerow forms the north and north-east limits. There is a timber post and rail fence forming the southern edge immediately adjacent to a public footpath running between Springfield Road and Milton.

The land falls from the eastern tip of the site reasonably steeply towards the west and north. The wider landscape rises to the east, beyond the confines of the site, as well as to the north beyond Milton Road. This wider landscape is in agricultural use, mainly for arable purposes. There is a single isolated dwelling (Springfield House) beyond the next field to the east of the site. Longlands is a standard estate road which connects to Askew Grove, Milton Road and Mount Pleasant Road via Springfield Road. It carries a footway to both sides and is lit along with surrounding roads.

9/2013/0643 - Land at SK3126 1562 Longlands, Repton DE65 6GB



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**South Derbyshire District Council. LA 100019461. 2014**

## Proposal

The application is in outline, with all matters except for means of access to be reserved. This seeks permission for the erection of up to 40 dwellings, providing a mix of house types and tenures, along with the provision of associated infrastructure such as roads and footways, Sustainable Urban Drainage Systems (SuDS) and Public Open Space (POS) covering some 0.58 hectares. The indicative layout shows that housing would be reduced to single storey scale towards the highest part of the site (the eastern tip).

The intended access is off the existing turning head at the end of Longlands, with the public footpath also providing pedestrian access into the southern and eastern corners of the site. The indicative layout also provides for a potential footpath link to the land to the north, where beyond which lies Milton Road. The POS would mainly sit to the northern part of the development with SuDS incorporated within this, but a further area of POS would form a landscaping buffer along the eastern edge of the site. An equipped play area is to be provided within the POS.

As this application is in outline with only matters of access to be considered, the layout, scale, appearance and landscaping of the site are not "fixed". A later reserved matters application would test the suitability of these matters, and therefore it is the principle of residential development which is sought to be established.

An amended indicative masterplan was submitted along with an addendum to the Design and Access Statement explaining the reasons for the changes. Assessment proceeds on the basis of these changes and other documents originally submitted.

## Applicants' supporting information

Alongside the indicative masterplan a number of technical reports and supporting documents have been submitted. These are all available in full on the Council's website. The following summarises those documents and in turn the view of the applicant:

- The **Design and Access Statement (DAS) and DAS Addendum** outlines the national and local planning policy context, as well as attending to the principles of Building for Life. It notes connections to the regional road network, and that it is connected via the regular weekday and weekend V3 bus service to national bus and rail services operated out of Burton Upon Trent. The site is located on the edge of the urban envelope of Repton, bound by residential uses and agricultural land. Within 400m (5 minutes walk) are local amenities including a primary school, a church and a local park and recreation area, whilst within 800m is a bus stop, public house, dental practice, nursery, a private school and the village centre including convenience retail, banks and restaurants. Other facilities such as secondary schools, colleges, supermarkets, GPs and hospitals are within a 15 minute drive.

Many of the characteristics and opportunities of the site can be attributed to the historical growth and development of the area. Since the establishment of the medieval village, growth was limited until the first half of the 20th century. The area immediately to the west of the site is characterised by post-war housing in the form of a medium-low density planned estate. Streets and house types are formal, street frontages are regular and building heights consistent at 2-storeys. Beyond this the character becomes denser as you approach the historic core.

Frontages become more varied, building lines irregular and heights change, resulting in a much more animated skyline including chimneys, turrets and the village church in comparison to the more contemporary development which bounds the site.

Open countryside bounds the eastern and southern edges. The existing urban edge is rigid and formalised due to the planned nature of this part of the village. Properties generally back onto the countryside and don't take advantage of views across adjacent farmland and so issues of residential amenity will need to be considered. Views of local landmarks including the village church and Willington Power Station are possible from the site and surrounding area such that the site's aspect will also require consideration at the early design stages. To harness the rural character of the site and wider village, the relationship the proposals have with adjacent areas of countryside and open space will need to be carefully and sensitively considered. Established hedgerows and a former World War II bunker warrant retention as these will help any future development to create its own unique identity whilst preserving and enhancing its setting. The historic use as farmland means the area is largely free of trees. The sloping setting means that drainage will need to be considered, providing the opportunity to deliver habitat areas and support local biodiversity, but the area is free of any flood risk from local streams and rivers. Further discussion is given to use and amount, indicative layout, scale parameters, access and character and appearance before considering the development's potential against Building for Life 12.

- The **Planning Statement (PS)** considers the planning case relating to the applicant's proposals for development of the site after taking into account the Development Plan and all other relevant material considerations. It provides a brief description of the site and details of the proposed development; rehearses the relevant planning policies as well as a detailed analysis of planning policy and related considerations in relation to the proposed development; and provides an explanation of other material issues of relevance before drawing together conclusions on the various issues raised. These matters will be drawn out in the assessment below. The PS also outlines the proposal to be for circa 40 units, in line with that stated on the application form. The assessment proceeds on this basis.
- A **Statement of Community Involvement (SCI)** is provided. This notes that planning officers were engaged in early discussions as to the development of this site. It then outlines the holding of a public exhibition was held on 26 July 2013 at Repton Village Hall. The exhibition materials are appended as well as an approximate attendance figure. The key issues raised by attendees related to the capacity of Longlands to accommodate additional traffic, both in terms of highway safety and the impact on residential amenity; that existing services and facilities, including sewers and schools, may not be able to cope; the indicative location of the proposed play area and pond to the rear of existing residential properties (e.g. the potential for anti-social behaviour); and the scale of the proposed development and the perceived detrimental impact it would have on the character of the village. The SCI responds to each of these points, and where necessary these responses shall be drawn out into discussion below.

- A **Transport Statement and Addendum (TS)** has been prepared to consider the access, traffic and sustainable travel issues associated with the proposed development having consideration to the document “*Guidance on Transport Assessment*” published by the Department for Transport. It also takes into account advice contained in the 6C’s Design Guide as well as the requirements of Manual for Streets (MfS) and MfS2, and the NPPF. The TS looks at existing conditions in respect of the site, the surrounding area, the local highway network and the facilities available to encourage access by sustainable modes of transport. It also reports on current traffic patterns and reviews the relevant personal injury accident records of which there are just two at different locations in the area in the past 5 years.

The TS makes predictions for the level of peak hour and daily traffic generated by the development at the proposed site access and over the local highway network, and investigates the potential impact of this traffic generated on the site access and local highway network. The projections (based on 50 dwellings) give 34 movements during the morning peak hour, 37 during the evening peak hour, with other movements spread across the day bringing a projected total of 281 movements. Guidance advises that a threshold of 30 peak hour movements should be used to assess whether a development would potentially have a significant impact on both the local and strategic highway network. Given the proposals only generate a maximum of 37 hourly movements, or less than one vehicle per minute on average, it is considered that the increased vehicular traffic on Longlands and Springfield Road could be satisfactorily and safely accommodated.

Visibility at the junction of Longlands and Springfields, Springfields and Milton Road, and Springfields and Mount Pleasant Road is all considered to be satisfactory. A forward visibility of approximately 24 metres can be achieved as Longlands bends to the west. In accordance with MfS this forward visibility is considered suitable for vehicle speeds of up to 20 mph and, furthermore, MfS recommends that residential streets are designed to ensure speeds of 20 mph or less. It is therefore considered that the achievable forward visibility is adequate and should not cause a material concern. The average parking demand is considered to be 1.9 spaces per dwelling, with 1 allocated space per dwelling. Refuse collection vehicles would be able to park at the kerbside adjacent to all dwellings, or alternatively manoeuvre to within 25 metres walking distance for refuse workers of any designated collection points located within a 30 metres walking distance for residents of the dwellings they serve.

The development is projected to generate a total increase of 33 daily pedestrian movements and 8 daily cyclist movements. It is considered existing off-site facilities should satisfactorily accommodate the increase in pedestrian movements, and whilst there are no formal cycle facilities close to the site, the existing infrastructure is considered suitable to accommodate the moderate increase here. An increase of 10 daily trips by bus is predicted and existing services arrive and depart in line with typical 0800 to 1800 hours working hours. Accessibility however is less favourable although this is a balance of distance, frequency and destination. Therefore whilst it is noted that the bus stops are above the recommended reasonable walking distance, the service frequency is considered satisfactory and serves several major employment areas. The most direct route to the bus stops on Willington Road is via Springfield Road, Askew

Grove and along High Street. There are lit footways of a good standard on both sides of the roads, with no major junctions to cross. Furthermore existing residents living adjacent to the site experience similar accessibility issues such that the proposal is considered to result in a negligible change to the existing situation with a minimal increase in demand for bus trips.

- A **Flood Risk Assessment (FRA)** has been provided, prepared in accordance with the NPPF and accompanying interim Technical Guidance, the South Derbyshire District Council (SDDC) Strategic Flood Risk Assessment (SFRA) and in consultation with the Environment Agency (EA) and Severn Trent Water Limited (STW).

The EA Flood Zone mapping shows the site to be located entirely within Flood Zone 1 (Low Probability), meaning a less than 1 in 1000 annual probability of river or sea flooding in any year. However as the site is located upon a principal aquifer, it is likely that this will require further investigation and consideration at a detailed design stage. The proposed development will also increase the impermeable area on site and subsequently surface water run-off from the development is to be restricted to greenfield runoff rates to mitigate the potential impact on off-site flood risk. The proposed drainage strategy is based on the implementation of a traditional piped drainage system, coupled with SUDS features (in the form of swales and ponds) to provide the necessary attenuation and water quality treatment.

- The **Ecological Report** aims to provide a description of the existing habitat types; determine the existence and location of any ecologically valuable areas; and identify the presence of any protected species. A walk-over survey of the site was carried out in accordance with good practice and complemented baseline data gathered from other sources. This makes up the standard Phase 1 habitat survey.

Throughout the survey consideration was given to the actual or potential presence of protected species. Consideration was also given to the existence and use of the site by other notable fauna and species of principal importance for biodiversity. Particular attention was paid to potential for bats, badgers, great crested newts, reptiles and birds, as well as considering the value of habitat on or adjacent to the site (such as hedgerows and trees) to provide for species. There are no statutory sites of international nature conservation importance within a 5km radius, and the closest SSSI is approximately 4.3km to the south-east. The nearest Local Nature Reserves (LNRs) are some 6km distant from the site, although a number of non-statutory designated sites occur within 1km of the site. The habitat is identified to mainly comprise of improved grassland and scattered scrub, with hedgerows and two buildings. The buildings and any trees were assessed for bat roosting potential, but are all considered unsuitable. The potential for nesting and foraging birds is noted, otherwise there is considered to be a low risk to newts, reptiles, badgers and other species.

It is recommended that the planting scheme gives preference to the use of locally native woody species of local provenance, and that retained trees be protected from damage and from soil compaction during works. To minimise potential disturbance to bats, external lighting should be designed to ensure that light spill onto new and retained vegetated areas and adjacent hedgerow habitats is

minimised. It is also recommended that any removal of hedgerow and trees should occur outside of the bird breeding season, and to mitigate for loss of any bird habitat it is recommended the scheme includes habitat enhancements through the planting of native and ornamental trees and shrubs, with preference given to native plants of value to local bird populations.

- An **Arboricultural Assessment** is provided focussing on any trees present within or adjacent to the site that may potentially be affected by future proposals. A total of 26 individual trees and 7 groups of trees were surveyed. Of significance and worthy of retention is a number of English oaks, approximately 12m in height, located within the school grounds along the northern boundary, a 8m corkscrew willow located in a rear garden on the western boundary, a 10m common ash and a 10m beech located on the western boundary, and an 8m English oak on the southern boundary.

Having appraised the indicative plan for any arboricultural implications that may arise as a result, the layout is considered capable through its design to retain and incorporate all of the existing trees by virtue of their peripheral locations around the boundaries of the site. The majority of trees are on private property, having been included within the assessment for their influence on the site and the remainder are located along the boundaries. It is recommended new tree planting forms an integral part of any new development and be considered at the design stages of emerging layouts. New trees should be appropriate for the future use of the site and not only improve and enhance the existing tree population, but to be complementary to the local landscape character and being suited to the sites contextual surroundings.

- The **Heritage Statement** provides an assessment of the archaeological potential of the site and the significance of heritage assets within and around the site. It reviews existing archaeological information and discusses the results of a geophysical survey carried out. In summary there are no recorded designated or non-designated heritage assets within the site, and it is considered development will have no impact on the significance of designated or undesignated assets outside of the site. The site was part of the agricultural hinterland to medieval Repton and the geophysical survey detected no features of archaeological interest other than the extant ridge and furrow, which is considered, at best, to be of local archaeological interest.
- A **Landscape and Visual Impact Appraisal (LVIA)** has been carried out taking account of national and local planning policy and guidance, the Character Map of England (Sub Area 69: Trent Valley Washlands and Area 70: Melbourne Parklands) published by Natural England, the 2010 East Midlands Regional Landscape Character Assessment and the Landscape Character of Derbyshire published by Derbyshire County Council in 2003.

The development would form an extension of the adjacent modern settlement form, which is predominantly inward looking at this edge of Repton and the landscape effects of the proposed development would result in no change to the townscape character of Repton itself. No direct relationship is identified between the site and the more sensitive Repton Conservation Area. Within the local landscape context, where evident the development proposals would form part of the existing Repton settlement backdrop and the settlement edge can potentially

be enhanced in this location through orientation of new properties and the provision of a green edge. At worst this would result in a slight adverse effect on the character of the landscape context.

The visual assessment, undertaken during the winter months and therefore based upon the worst case scenario in terms of visibility, shows that although the site is open in character, the surrounding landform, settlement and tree cover mean that there are few local public vantage points from where the site is visible. Where the site is visible it is seen within the context of the adjacent open settlement edge. The most sensitive receptors identified are properties at the adjacent settlement edge, Springfield House and the public right of way along the southern site boundary. Away from the site boundaries the landform, trees and occasionally properties filter or screen views from the public. In longer views the site is unlikely to be visible or seen as a minor element within a wider panoramic view.

The visual effects have been assessed as negligible to slight adverse following the maturing of the proposed green infrastructure associated with the development. The proposed built development, where visible, would be seen within the context of the existing settlement edge. For residential receptors adjacent to the site, visual effects may be substantial/moderate adverse due to the loss of the predominant current view across an open field, but these greater effects apply to a small number of receptors at the site periphery only. Views from the adjacent public footpath have been assessed as moderate adverse initially lessening to slight adverse as landscaping matures.

The LVIA concludes that providing the proposed built development is of a high quality, constructed in materials that reflect local built character and with the majority of properties a maximum two storeys in height, the assessed long term landscape effects are likely to be "slight adverse" with retention and enhancement of the site landscape features and additional proposed landscape measures partially offsetting the adverse effects.

- A **Viability Statement** assesses the economics of developing this site, considering land value, development and finance costs, revenue from sales, revenue and suppressed revenue from affordable housing, and Section 106 costs. The Section 106 costs include commuted sums towards primary and secondary school places, public open space and a new Household Waste Recycling Centre (HWRC). They consider, having used reasonable assumptions and with an appropriate uplift applied, the scheme is still viable with an affordable housing provision.

In addition to the above, a Topographical Survey has also been provided and specifically in response to a request from the County Council, a feasibility study for minerals extraction.

## **Planning History**

9/2012/0852: The formation of a manege – Approved January 2013

9/2010/0160: The formation of an access track to the stables – Approved May 2010

9/2009/0751: The erection of stables – Approved November 2009

9/2001/1150: The erection of five bungalows and seven houses (on the adjoining land now forming the end of Longlands) – Approved June 2002

### **Responses to Consultations**

In the interests of efficiency and clarity, the most up to date response from each consultee listed below is given, recognising amendments seeking to address any previous comments or concerns made:

The Environment Agency raises no objection subject to a planning condition requiring the drainage details for surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development.

The County Highway Authority raises no objection to the proposal subject to conditions being included in the interests of highway safety. These are to:

- i. ensure appropriate access, turning, wheel washing, unloading/loading and storage arrangements for the construction phase;
- ii. require appropriate geometry and construction of the access onto Longlands;
- iii. ensure the eventual layout of the site conforms to adoptable standards and can cater for service vehicles;
- iv. ensure that drainage provision is adequate;
- v. ensure that roads are built to an interim stage prior to occupation to ensure that occupiers can access dwellings safely;
- vi. ensure appropriate parking provision and cycle storage, bin storage and gate positions; and
- vii. require the submission of a Travel Plan to encourage use of sustainable forms of transport.

The applicant is also made aware that a commuted sum will be payable for future maintenance in line with details published in the 6C's Design Guide for additional areas of highway (e.g. parking bays, trees in the highway, etc.).

The County Planning officer notes they hold no records of any historic mineral workings or waste development on the site. It is however underlain by sand and gravel resources. The comment that development proposals should not normally be permitted where they might constrain future use for mineral purposes and policy MP17 of the adopted County Minerals Local Plan should be taken into account in the assessment. This states that the mineral planning authority will resist proposals for development which would sterilise economically workable mineral deposits, except where there is an overriding need for the development and prior extraction cannot reasonably be undertaken or is unlikely to be practicable or environmentally acceptable. Following the submission of more detailed information regarding the sand and gravel resources within the application site, the County confirms that their initial holding objection has been withdrawn.

The County Developer Contributions officer notes there to be a need for commuted sums towards the provision of a new HWRC for South Derbyshire given the existing centre at Newhall (Bretby) is already over capacity; towards the provision of 10 primary

school places at Willington Primary School, 8 secondary school places at John Port School or a strategic secondary school solution for the Derby sub-area, and 3 post-16 places; towards Public Right of Way (PRoW) improvements; and amendments to site design to enable provision of high speed broadband. The County recognises that current market conditions are still difficult and that the viability of development schemes will vary, such that it is appreciated that it may not be possible to mitigate all of the impacts identified because of the viability of this development proposal. DCC also highlights that they are working with Derby City Council and South Derbyshire District Council (SDDC) towards a strategy to provide additional secondary capacity through, potentially, expansion of John Port School and the delivery of a new secondary school.

The County Archaeologist notes that Repton is an area of great archaeological sensitivity, with Saxon and Viking-age archaeology of national importance in the village centre, and recent finds of Roman to Saxon period continuity in the grounds of Repton School. Whilst the site lies a little way outside the historic village core, there are documented records of Roman pottery and round barrows at Askew Hill, 340 metres north of the site; and of an Anglo-Saxon brooch and other metalwork circa 300 metres east of the site. The location of the site on the fringes of the Trent Valley also raises the possibility of prehistoric archaeology. He notes the Heritage Statement supplied, which includes the results of a desk-based assessment and geophysical survey – the latter of which identifies no sub-surface features beyond the remains of medieval ridge-and-furrow cultivation. Hence, on balance, given the archaeological importance of Repton and the scatter of early finds in the vicinity, there is potential for missed early and/or small scale archaeological remains and that a proportionate approach would be to require monitoring during the initial project groundworks to identify and record any archaeological remains.

The County Drainage Officer comments that the proposed site is unlikely to be subject to surface water flooding during a 1 in 200 year flood event in its current state. However development of the site for residential purposes may add a considerable area of impermeable surfacing to the existing greenfield site which is likely to exacerbate surface water flood risk. The County strongly promote SuDS to be incorporated within the design of a drainage strategy, with an appropriate number of treatment stages. The applicant should also seek to promote betterment or meet current greenfield runoff rates taking into account the impacts of climate change. It is noted from the FRA that the current greenfield rates are considered too low and would encourage regular obstruction of the pipe. As a result the applicant is suggesting a 5l/s discharge off site for all events up to and including the 1 in 100 year plus climate change event. The County suggests however that rather than discharging above greenfield runoff rates, which may increase flood risk off site, the applicant considers designing a self-contained drainage system with zero discharge off site through an increase in site storage to accommodate all site surface water, rather than requiring a connection to the public sewer.

A review of the British Geological Survey dataset for infiltration SuDS suggests that for the majority of the site the subsurface is potentially suitable for infiltration SuDS; groundwater is likely to be more than 5m below the ground surface throughout the site for the whole year; ground instability problems are probably present and increased infiltration may result in ground instability; and the groundwater may be vulnerable to contamination although the site does not sit within a groundwater Source Protection Zone. The applicant should quantify infiltration rate via an infiltration test and a detailed ground investigation to consider whether infiltration can be used as a SuDS technique

alongside water storage in ponds, etc. There are no watercourses in the close vicinity of the site that are designated under the Water Framework Directive. However no activities or works should deteriorate the status of any watercourses as the main objective is to prevent deterioration in 'status' for all waterbodies. All waterbodies should reach 'good ecological status' by 2015.

Derbyshire Wildlife Trust (DWT) comments the ecological report covers surveys carried out in winter and summer months, and are informed by a data search for existing biological records with relevant local nature conservation organisations. The surveys have been carried out to an acceptable standard by suitably experienced and qualified ecologists using methodologies that accord with best practice standards and has provided an accurate assessment of the nature conservation value of the site. DWT advises that there are unlikely to be any protected species issues arising with the application, but it is noted the proposed development will require the loss of the improved grassland on the site and the removal of the stable building – the latter of which has potential to provide habitat for nesting birds such as swallows. They therefore advise removal of the stable building and any sections of hedgerow or scrub should avoid the bird breeding season. The indicative site layout also shows the existing perimeter hedgerows and trees will be retained along with a World War II pill box. This is welcomed, but advise there should be protection from damage during any preparation/construction works.

Site master-planning and layout should have regard to the existing site constraints and opportunities, with existing landscape and biodiversity features retained and enhanced, wherever possible, providing a network around which a built development can be designed. They welcome the incorporation of the hedgerows within green spaces/corridors, as opposed to gardens of the new properties, which is particularly welcomed. They also welcome the consideration of biodiversity enhancement within the SuDS area and the enhancement of the retained hedgerows along the northern and eastern boundaries. They therefore ask that any reserved matters application is accompanied by a Habitat Management Plan (HMP) for all retained and created habitats, and the use of native species is reflected in the same application.

The Environmental Health Officer (Contaminated Land) has reviewed land and ground quality records and notes that historical land uses do present some potential risks to the site and its development, though nothing that could not likely be dealt with through investigatory work or protection measures. Conditions are thus recommended.

The Environmental Health Officer (Pollution Control) has no objection in principle in respect of potential noise or pollution impacts.

The Council's Open Space and Facilities Development Manager notes that whilst the open space provision in terms of quantity seems reasonable, there are some concerns about its location, connectivity and surveillance, and the size of the equipped play provision. She states that it would be preferable to achieve a link to the school from the development. Following the amended masterplan being submitted, the location of the timber trail play area remains of some concern, although it is acknowledged this can be addressed at the later detailed stage.

The Police Crime Prevention Design Advisor raises no objection to the principle of residential development on this site. He comments that the indicative housing layout looks to offer a good balance of outward looking properties to contribute to the

supervision of the street and open space, with well surveilled parking and securable private space. He makes requests in respect of the layout for consideration of any application for reserved matters. Firstly that all exposed housing elevations are well treated to allow a view between interiors and external space. Secondly, where housing is set in blocks of more than two properties that rear garden access routes originate within the view of associated houses, either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less. Thirdly, whilst he does not see the proposed footpath links from the existing public footpath being of any great benefit to new occupants in respect of convenient circulation, he does not object to these provided that the current open aspect of the route and links is maintained. Finally, he similarly does not see any great benefit in providing a possible link to the land to the north, and noted that it would provide unobserved access into open space and the backs of both new and existing properties. Consequently he recommends this feature isn't included in any subsequent reserved matters detail.

Severn Trent Water Ltd raises no objection subject to a condition requiring appropriate foul and surface water drainage for the site.

### **Responses to Publicity**

Repton Parish Council objects to the proposal, noting:

- i. the site is elevated and prominent;
- ii. the separation between Repton and Milton will be reduced to just three fields;
- iii. the proposal is contrary to the recommendation in the Village Design Statement, which is adopted by SDDC as Supplementary Planning Guidance;
- iv. the site is outside the Village Development Boundary;
- v. for the housing to be truly sustainable it should be closer to public transport – at its nearest boundary the site is 0.7 miles from the service bus route, a 14 minutes brisk walk downhill and longer uphill;
- vi. the proposed development will impose additional strain on local schools, infrastructure (drains & sewers) and roads that the current proposals do not address adequately; and
- vii. there are existing concerns about the ability of emergency vehicles to pass safely and quickly along Springfield Road, which is the access road for Longlands, and the situation will only be made worse by a development of 40 dwellings.

Repton Village Society objects to the proposal, noting:

- i. the public consultation was considered to be flawed by inaccurate statements in the proposal, in that it stated the site was identified in the Strategic Land and Housing Availability Assessment (SLHAA) as being suitable, available and achievable; implying an existing acceptance by the County of the proposed site;
- ii. this development will be building outside the village envelope; and
- iii. building between Milton and Repton goes against a guideline in the Village Design Statement.

23 objections have been received from local residents, including those living on Longlands, Hill View and Springfield Road. These raise the following comments and/or concerns:

### Principle of development

- a) site is outside the village envelope, and nothing has changed since the envelope was set meaning special justification is required;
- b) the 2012 [emerging Local Plan] consultation did not suggest any development for Repton;
- c) a similar proposal was rejected in the 1970s;
- d) the Parish magazine suggested in January 2008 this site is not ideal for low cost housing and it would further erode the separation to Milton;
- e) other more suitable sites on other land around Repton and within the District;
- f) there is always property for sale or to let in the village, and existing empty houses should be filled first;
- g) this large scale development will alter the character of the village and the size of Repton would be dramatically increased;
- h) the effect on the significant historical interest of the village, attractive to tourists;

### Services and facilities

- i) the likely number of school-age children is not reflected in the projections set out in supporting documents;
- j) the primary school would need to extend to accommodate the extra children;
- k) there is currently no available space at Repton Primary or John Port Academy;
- l) insufficient infrastructure for this development;
- m) the village hall is already no longer fit for purpose let alone further demand;
- n) could a requirement be imposed to require the rebuilding of the village hall and extension of the school?
- o) the capacity of Willington surgery to cope;
- p) the bus service requires a 20 minute walk to the village if you are able bodied, before it is further to a chemist, the doctors and the nearest garage;
- q) the bus service could do with being more frequent and stop closer to the site;

### Highway safety and traffic

- r) Longlands is a bottleneck for traffic and cannot deal with an increase;
- s) existing on-street parking problems on Longlands would be exacerbated;
- t) local road network is in a poor state of repair and already overloaded, particularly around the village centre;
- u) roads cannot cope with construction traffic;
- v) traffic on Longlands already a problem at school drop-off/pick-up times;
- w) extra traffic from residents and associated deliveries, etc;
- x) increased danger from road traffic to young children;
- y) any alternative connections to Mount Pleasant Road or Milton Road may cause a "rat run";

### Drainage

- z) surface water runoff arising from impermeable areas of the development;
- aa) surface water flood risk to existing properties down slope of the development;
- bb) the field contains springs;
- cc) sewers on Longlands are inadequate;

### Visual and landscape impacts

- dd)impinges on the greenbelt land in the area;
- ee)elevated nature of the site raises its prominence;
- ff) the buffer between Repton and Milton would be reduce by one of four fields;
- gg)future ribbon development and infilling eroding the break between settlements and allowing coalescence;
- hh)impact on current views from residential properties;

#### Amenity impacts and design

- ii) increase in noise and disturbance, particularly during construction;
- jj) compromised privacy from overlooking;
- kk) increased light pollution;
- ll) location of play area and open space encouraging anti-social behaviour;
- mm)housing proposed does not match the character of the area;
- nn)no details as to how these properties would meet the 2016 zero carbon target;

#### Other matters

- oo)there are no details as to what affordable housing would be available, and will they really serve local need;
- pp)impact on wildlife and wider biodiversity;
- qq)the site has not been subject to an archaeological dig so how can the developer conclude it is not of interest?
- rr) there is very little ridge and furrow surviving around the village; and
- ss) the pillbox should be retained.

A number of respondents raised comments which are not considered to be material planning considerations:

- tt) public consultation materials were inaccurate and misleading, and only targeted to immediate neighbours;
- uu)residents may not realise the public consultation responses are not carried forward to this application;
- vv) there has been no consultation with residents of Milton and consideration of impacts upon them; and
- ww) various statements are incorrect as are pictures of amenities;

[Note: The SCI carries the consultation materials used at the event. Accounting for the fact that the application is in outline and at the time of the consultation certain elements of the application were being formalised, it is not considered the materials are misleading and any residents were at liberty to attend. Whilst comments are not formally carried forward to this application, the original responses submitted have been forwarded to officers, and these are summarised below. The statements submitted now are generally considered accurate and not materially detrimental to interested parties' ability to comment on the application.]

- xx) a precedent could be set;

[Note: Each application is assessed on its own merits, such that a grant of permission here after proper balancing of the proposal against prevailing planning policy does not set a precedent.]

yy) depreciation of property values in the vicinity.

[Note: Government make it quite clear this is not material to planning decisions.]

The responses received from the public consultation are broadly grouped as set out in the SCI (see summary above). The above points (a) through (yy) further echo the responses made, although there were equally some who indicate support for the development.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 8 and 11 (H5, H8 and H11); Transport Policy 6 (T6), Environment Policies 1, 9, 11, 13 and 14 (EV1, EV9, EV11, EV11, EV13 and EV14), and Community Facilities Policy 1 (C1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Pre-Submission Local Plan 2014: Policy S1: Sustainable Growth Strategy, Policy S2: Presumption in Favour of Sustainable Development, Policy S4: Housing Strategy, Policy S6: Sustainable Access, Policy H1: Settlement Hierarchy, Policy H9: Land at Longlands, Repton, Policy H19: Housing Balance, Policy H20: Affordable Housing, Policy SD1: Amenity and Environmental Quality, Policy SD2: Flood Risk, Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure, Policy SD4: Contaminated Land and Mining Legacy Issues, Policy SD5: Minerals Safeguarding, Policy BNE1: Design Excellence, Policy BNE2: Heritage Assets, Policy BNE3: Biodiversity, Policy BNE4: Landscape Character and Local Distinctiveness, Policy INF1: Infrastructure and Developer Contributions, Policy INF2: Sustainable Transport, Policy INF6: Community Facilities, Policy INF7: Green Infrastructure and Policy INF9: Open Space, Sport and Recreation.

### **National Guidance**

- National Planning Policy Framework (NPPF): including (but not exclusively) paragraphs 6, 7, 8, 11, 12, 14, 17, 32, 39, 47, 49, 53, 58, 61, 69, 70, 73, 75, 96, 103, 109, 118, 120, 123, 129, 131, 132, 134, 135, 139, 144, 186, 187, 196, 197, 203, 204, 206, 215 and 216.
- National Planning Policy Guidance (NPPG)

### **Local Guidance and Evidence**

- Housing Design and Layout SPG.
- The Strategic Housing Market Assessment 2013 (SHMA).
- Section 106 Agreements – Guidance for Developers.

## Other Material Considerations

- Repton Village Society's Village Design Statement (VDS)

## Environmental Impact Assessment

A formal Screening Request was received prior to the submission of this application. Accordingly the site was screened under Regulation 5 of the Environmental Impact Assessment (EIA) Regulations 2011 for up to 50 residential units. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

## Planning Considerations

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

- The Development Plan and other material considerations;
- The Principle of Development
- Sustainability of the site;
- Impact on local economy, facilities and infrastructure;
- Affordable housing and viability;
- Highway impacts;
- Biodiversity and ecological impacts;
- Landscape and visual impacts;
- Heritage and archaeological impacts;
- Amenity impacts;
- Design and layout (inc. BfL and POS provision); and
- Drainage.

## Planning Assessment

### The Development Plan and other material considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 command that applications for planning permission must be determined in accordance with the Development Plan – in this case the saved policies of the SDLP – unless material considerations indicate otherwise. The NPPF is a significant material consideration, the emerging Plan requires due consideration, and replies from statutory and technical consultees, as well as third parties, are also material considerations. All these will carry varying degrees of weight.

### The Principle of Development

The site lies outside of the settlement boundary for Repton as identified in the SDLP, and consequently in open countryside. Paragraph 215 of the NPPF states *“due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”* [emphasis added]. The SDLP

contains numerous saved policies relating to housing development and development within the countryside which are considered to be consistent with the NPPF.

Policy H5 restricts development in Repton to within the settlement boundary as defined on the proposals map. As this site is beyond the village confines, the proposal cannot be said to be planned for by way of H5. It is left to saved policy H8 which allows for limited housing development in the countryside, but this is on an exception basis where it is necessary to support the operation of an established, viable, long term rural based activity or it is for the replacement of existing dwellings. These exemptions do not apply here. The proposal is therefore not in accordance with the Development Plan. Whilst EV1 places very similar criteria to limit development in the countryside and drive development to more suitable locations, there is argument that the development is “unavoidable” given the present need to allocate and develop greenfield sites to provide for strategic housing needs across the District. Whether the third limb of EV1, relating to visual, wildlife and heritage impacts, is met is considered below.

Paragraph 216 of the NPPF states *“from the day of publication, decision-takers may also give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in [the NPPF].”* The site forms part of a larger whole shown as a preferred site for around 100 houses in the emerging Plan (policy H9), the remaining land being to the north up to Milton Road (the subject of a separate planning application), and south of the footpath. The policy specifies the following site specific requirements:

- i) The development shall reflect the historic character of the village, preserve Repton’s landscape and townscape character, reflect local landform and be designed to minimise the effects on the local landscape;*
- ii) The eastern edge of the site will require a green buffer and landscaping to help soften the housing development against the rural landscape and improve the existing south east edge of the village;*
- iii) Views of the church spire from the public footpath will need to be respected and preserved where possible;*
- iv) Consideration of improvements in community facilities for Repton;*
- v) Development of the site shall not adversely impact upon the setting of Repton Conservation Area and other designated and non-designated heritage assets;*
- vi) A strategy to deal with foul and surface water associated with site development to be submitted alongside any development proposal;*
- vii) High quality pedestrian links within the site and delivery of enhanced walking connections to the site along Milton Road.*

The inclusion within the emerging Plan is material. In preferring this site the Council has already made a statement that this is considered to be appropriate for housing of a scale commensurate with the existing village. However that is not to say that the allocation is set. The emerging Plan is presently undergoing a final round of consultation. Moreover it has not yet been submitted for examination, nor tested by an Inspector who may disagree with the allocation. Accordingly, whilst indicating the Council’s preferred direction of travel as to development in and around Repton, only a modest degree of weight can be attached to H9.

Notwithstanding the above, the NPPF requires proper consideration of the weight which may be afforded to housing policies. Paragraph 49 of the NPPF states: *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”* [Emphasis added].

There are two arms to this paragraph: (1) that the application should be considered in the context of the presumption in favour of sustainable development (a point returned to below), and (2) SDLP housing policies should not be considered to be up-to-date if a 5-year housing supply cannot be demonstrated. It is intended to address point (2) first.

Paragraph 47 of the NPPF seeks *“to boost significantly the supply of housing”*. It is therefore clear there is considerable emphasis on bringing forward significant housing provision as soon as possible. This is achieved through a rolling supply of deliverable sites sufficient to provide five-years worth of housing against projected requirements (a “5-year supply”). Where local planning authorities have failed to deliver a 5-year supply, an additional buffer of 20% is required (effectively 6 years). Whilst the Council has no issue with land supply as such, the sites are not being developed as timely as previously anticipated and there is a shortfall on the 5-year supply at the present time. Whilst this and other preferred strategic allocations in the emerging Plan would provide this supply, and clearly some sites are already being delivered; their overall deliverability has not been formally examined. As such the relevant SDLP policies pertaining to housing delivery cannot be considered up-to-date and the proposal must be considered in the context of the presumption in favour of sustainable development. This conclusion also has a degree of impact on policy EV1 as it is clearly necessary to allocate land beyond settlement boundaries to accommodate projected housing needs over the next 15 years.

Repton is classed as a Key Service Village in the emerging Plan’s Settlement Hierarchy (H1). To qualify as a Key Service Village, settlements must have suitable public transport links and a minimum number and range of other services. Such settlements are envisaged to be capable of providing appropriate scale developments up to and including strategic sites (100 dwellings or more). However presently this Hierarchy can only be afforded a limited degree of weight and whilst the proposed development is actually below the scale envisaged for a Key Service Village, the emerging Settlement Hierarchy does not and will not change the fact that this site is outside of the village. The proposal remains to be considered on first principles.

Repton is served by a regular bus service from Burton and beyond to Willington and Derby. This provides connection to direct rail services to/from Derby or Burton in Willington and wider regional and national services in and out of Burton and Derby. The village lies on a junction between the B5008, which connects to the A38 and A50 via Willington to the north and to Burton to the west, and the main route from Swadlincote. Longlands carries a footway which connects with the surrounding highway network and provides a pedestrian route back to the village centre and facilities within, albeit around 1km distant via Askew Grove (approx. 12 minutes). The facilities on offer include a post office, a convenience store, a butcher, a bank, a primary school, a church, a recreation area, a public house, restaurants, a dental practice, a day nursery and the private school. Overall the range of services and the wider connectivity of this settlement are

considered to assist in demonstrating its sustainability and suitability for additional residential development.

### Sustainability of the site

In light of the above it follows that, as the Local Planning Authority is unable to demonstrate a 5-year supply, the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF applies. This means:

*“...where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted”* [Emphasis added].

However it is important to note that the NPPF provides a presumption in favour of sustainable development – not a presumption in favour of development. It is necessary, as a preliminary issue, to determine whether the proposed development is sustainable. The recent ruling in *William Davis & Jelson v. SSCLG [2013]* confirms this is the correct approach. Paragraph 6 of the NPPF states that *“the policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development...means in practice...”*. Paragraphs 7 and 8 go further to split sustainable development into three roles: economic, social and environmental, whilst highlighting that these dimensions are mutually dependent (i.e. they should be sought jointly and simultaneously). It is thus reasonable to conclude that conflict with other parts of the Framework, and indeed Development Plan policies, could lead to the proposal being defined as unsustainable.

Therefore Members should first reach a view on whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before considering whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising. The assessment so far establishes an ‘in principle’ acceptance of sustainability – the discussion below looks in detail at the impacts arising so a conclusion can be reached on whether the presumption should actually apply, and whether there are significant and demonstrable adverse impacts arising which should command a refusal.

### Impact on local economy, facilities and infrastructure

The issue of what constitutes a sustainable village could be considered as subjective. A view could be taken that an increase in population is likely to boost the local economy by increasing demand and bringing in more custom, or enabling businesses to expand or new businesses to locate within it. Paragraph 23 of the NPPF recognises that residential development can play an important role in ensuring the vitality of centres. The opposing view is that existing infrastructure and services are considered insufficient to cope with the additional population. It is accepted that the proposed development would place additional pressure on the village, whilst not providing any new facilities itself other than open space. Specific capacity issues are discussed below.

A key focus is the existing traffic congestion on Longlands around school drop-off and collection times, as well as further congestion within the village core. These matters are not disputed with the concern being that further vehicles generated by the proposal would make impacts further unacceptable. The TS looks at this matter, concluding trip generation amounts to 27 movements during the morning peak hour (when adjusting the projections' baseline from 50 to 40 dwellings) and 30 during the evening peak hour (and 225 over the entire day). It is difficult to predict precisely the distribution/direction of trips beyond the junction of Longlands and Springfield Road, but given the draw of the A50, A38, and Burton and Derby for employment purposes, and John Port Academy for secondary education, it is likely that most trips would be towards/from the village via Askew Grove and/or Milton Road. Given the proposal would only generate a maximum of 30 hourly movements (i.e. one every 2 minutes); it is considered that the increased vehicular traffic on the surrounding road network could be satisfactorily absorbed without the need for off-site improvements to alleviate the impacts. Indeed the Highway Authority raises no objection on grounds of network capacity.

A further key concern relates to schooling provision in the village and wider area. Repton Primary is claimed to be at a maximum capacity, with children from the village already having to attend schools elsewhere. As for secondary school places, John Port Academy serves this village and it is well established that it too has little capacity at secondary and post-16 schooling levels – a matter recognised by the County and in the emerging Plan. However the County considers capacity issues can be addressed through commuted sums towards the provision of 10 primary school places at Repton Primary School, 8 secondary school places and 3 post-16 places. These requests are considered to meet the planning obligations tests set out in paragraph 204 of the NPPF. The County highlights that it is working with the Council and Derby City Council towards a strategy to provide additional secondary capacity, possibly through expansion of John Port School and/or the delivery of a new school in the Derby sub-area. In the interim it is considered that the relatively small size of the development will likely delay first occupation (due to the need for a Reserved Matters approval and the construction period).

The development will inevitably create refuse and waste which will need to be handled through a HWRC. The existing HWRC at Newhall (Bretby) is already over capacity, having exceeded its tonnage last year, and unable to expand. Additional housing, of which the occupants have a right to use the existing HWRC, will compound this problem. Consequently the County advice of a need for commuted sums towards the provision of a new HWRC for South Derbyshire. This is considered to be justified and meet the NPPF tests.

Broadband quality varies across the District and access to superfast broadband speeds in Derbyshire is limited. Improvement to connectivity is a key priority for the County with superfast broadband roll out imminent. The NPPF places emphasis on ensuring high quality communications infrastructure. It is well established that the cost of providing broadband infrastructure at the outset is cheaper and less disruptive than retrofitting, and the County suggest that fibre optic cabling should be fully integrated within the development at design stage. The applicant has confirmed that this can be satisfactorily accommodated alongside the provision of other services without material additional cost.

Repton public footpath 27 directly abuts the southern boundary of the site. This footpath provides a link from Springfield Road to Milton, and is very well used. The County

considers that in view of a likely increase in the levels of use, the footpath would benefit from some surface/drainage improvements. Given the proposal points towards providing new permissive routes into the site and to land beyond, it is not unreasonable to assume the attractiveness of this route would improve, leading to increased usage. Consequently the request is considered appropriate.

The Derbyshire and Nottinghamshire Area Team of NHS England have adopted the former Derbyshire County PCT health care model, which assumes an average of 1800 patients per full time GP. Where extensions to existing practices are *required*, the Derbyshire and Nottinghamshire Area Team request financial contributions from residential developments where a significant increase in the number of dwellings is anticipated. No request has been received to substantiate a commuted sum in line with established figures in the Section 106 guidance. In the context of a new larger surgery having recently opened in Willington, it is highly unlikely any request could be deemed “necessary” under paragraph 204 of the NPPF.

Public open space, including play equipment and SuDS, is to be provided within the site. This would result in land being transferred to the Council for maintenance upon completion of the development, attracting a direct need for commuted sums to support such maintenance. The request is considered to be compliant with paragraph 204. The proposal also attracts commuted sums for outdoor sports facilities and built facilities as these would not be provided on site, but where these are existing and provided in the prospective residents would rely upon them. These sums are also considered to be compliant.

Councillor Stanton and residents, as outlined in points (m) and (n) of the representations, highlight concern over the suitability of the village hall. The Parish Council has alluded to such concerns also, and this was clear at the public consultation on the proposal. The hall is well used by the community and it is nearing the end of its useful life expectancy such that the Parish Council is already raising funds towards a replacement building. The Infrastructure Delivery Plan which informs the emerging Plan identifies the hall as a key asset in need of improvement. It is not unreasonable to draw a link between an increase in the number of dwellings in the Parish to an increase in the use of the hall, whether it be by way of increased attendance to existing functions or new functions taking place. However the Parish Council has not provided a substantiated sum “per head” as would be normal in demonstrating full compliance with paragraph 204. Notwithstanding this, the Open Space Facilities Development Manager has agreed that the funds arising from the built facilities commuted sum (circa £13k) can be put towards the village hall and the applicant raises no objection to this. Indeed they have agreed to provide a further £10k to bring the total contribution towards the village hall redevelopment to in the region of £25k. This community benefit attracts a reasonable degree of weight.

Remaining services and facilities, such as shops and public houses, would not have a *direct* pressure placed upon them. The proposal is instead considered to bring about benefits in this fashion and ensure the vitality of them. Indeed the vitality and longevity of many of the aforementioned local services is sustained by the proposal, subject to the commuted sums outlined. It is thus not considered there is a specific capacity issue or impact on a local service or facility which cannot be addressed in order to make the development sustainable.

#### Affordable housing and viability

H9 of the SDLP seeks that a proportion of the housing be made available for affordable purposes. The NPPF states local planning authorities should “*use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area...*”, and “*identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand...*” (paragraphs 47 and 50). The SHMA identifies an overall need for 75% rented accommodation, and 25% intermediate (shared ownership). The Strategic Housing Manager also prefers that more emphasis is given to delivering housing for those on the social rent list as opposed to intermediate needs, and advises that the 75% rented need equates to 71 dwellings in Repton, leading to there being an overall affordable housing need in village for 95 dwellings.

The emerging Plan sets out a policy minimum of 30%. This is based on the most recent update to the SHMA and equates to 12 dwellings. The applicant initially proposed 8 affordable dwellings, or 20%, on the grounds of viability and negotiations struggled to find a common ground. However the Strategic Housing Manager indicated that a commuted sum instead of on-site provision would be more appropriate in this particular instance, especially with an adjacent element of the overall preferred allocation coming forward with 73% of the units proposed for affordable housing needs. A commuted sum has been calculated which equates to 30% on-site provision of an appropriate mix, and the applicant has agreed to provide this in lieu of any on-site provision.

Consequently there is no longer a viability concern, with the proposal adhering to policy requirements both in terms of affordable housing provision and other commuted sums.

#### Highway impacts

It is important to divorce the existing situation from that which may result from the proposal. This is in order to better appreciate what issues already exist, what issues the proposal may introduce, and whether the difference would be materially detrimental to highway safety. Congestion and capacity concerns have already been discussed above, and the Highway Authority raises no objection in this respect. The remaining matters relate to the proposed access and visibility to/from it, as well as whether junctions in the vicinity are suitable for intensification of their use.

The access will exist as an extension to Longlands with footways to either side leading off from the existing turning head. There is thus no concern as to visibility at the interface between the existing and proposed highway. The geometry of the bend in Longlands does however limit forward visibility below recommended standards. This matter is addressed in the TS and given MfS allows for lower visibility standards on residential streets, there is no objection here. The necessary 43 metres to either side of the Longlands/Springfield Road junction, and in turn Springfield Road junctions with Milton Road and Mount Pleasant Road are all achieved, denoting that such junctions can accommodate further vehicle movements, albeit limited as outlined above. Construction traffic is not considered to materially change this view. Consequently, subject to appropriate conditions, there is no highway safety concern to which the County object and in turn no reason to resist the proposal on these grounds.

The internal layout of the site and whether it facilitates safe and convenient access is left to be considered under the Reserved Matters application. It is quite conceivable that the extent of the site will allow for sufficient turning and manoeuvring space for service

and delivery vehicles, as well as parking provision for residents. Further consideration is given to pedestrian access which will be possible not just from Longlands but also from the existing footpath along the southern boundary. Again this is acceptable in principle, and the potential for a footpath link to the north to connect with Milton Road is welcomed although it must be acknowledged that this requires a willing landowner to complete this connection.

### Biodiversity and ecological impacts

The habitat survey considered the potential offered on or adjacent to the site. The majority of the site is put to grass for foraging with no static water bodies on or adjacent to it, limiting potential for reptiles or amphibians. No evidence of badger activity was recorded. As for bats, the perimeter hedgerows and associated trees provide suitable, though limited foraging and commuting habitat with a moderate degree of linkage to similar habitats outside the site. The trees are generally immature or semi-mature and in good condition, such that no features suitable for use by roosting bats were identified. This leads to a view of low to no roosting potential. Consequently there is not considered to be habitats of international, national or county importance that would be directly or indirectly affected by the proposals, with the species recorded on the site described as common or abundant, and no protected species recorded. However the hedgerows and trees provide potential nesting and foraging opportunities for a range of birds including farmland and urban edge species, although conditions can protect such interest. It is considered a decision can be made on this application without giving rise to conflict with the Habitat Regulations.

Notwithstanding this the DWT seeks a range of generic mitigation/enhancement measures to reduce the impact of the works on local wildlife and increase the nature conservation value of the site in the long term in accordance with EV9, EV11, the third limb of EV1, and paragraphs 117 and 118 of the NPPF. This should represent a net gain in biodiversity. They point towards and welcome the indicative plan showing net habitat gains along the eastern and northern hedgerow corridors, and encourage the consideration of biodiversity enhancement in the SuDS area. They seek conditions to afford protection to existing hedgerows and trees, protection for nesting birds, and submission of a habitat management plan at reserved matters stage. These requests are all considered reasonable and proportionate, in line with the NPPF.

### Landscape and visual impacts

As identified already EV1 makes allowance for the development in that it can be viewed as “unavoidable”, although there are further criteria to be fulfilled. An objective of the emerging Plan is to protect the rural character of the area. The focus is therefore on the value of the character of the countryside and landscape quality, and what degree of weight should be attached to it. The landscape falls into the “Melbourne Parklands” character area – more specifically the “estate farmlands”. This is a broad, gently rolling lowland, mixed farming landscape with estates. Trees and woodland are well represented throughout and with occasional red brick villages (such as Repton), scattered estate farmsteads and country houses. The proximity to main settlements has led to reasonable expansion of larger villages in the character area, with existing urban fringes often characterised by large modern housing estates.

The proposal would sit close to the top of a ridge between the Repton and Milton valleys, although considerably lower than Askew Hill to the north which marks the drop

to the Trent valley floor. This position affords views towards the development from Milton Road to the north, the footpath over Askew Hill, the footpath from Milton and from land to the west over Repton looking back over the settlement. From these aspects, the most pronounced impact would be from the footpath, Askew Hill and Milton Road although this would be lessened by way of a planting buffer along the eastern boundary of the site. In addition the fall away to the south-west would further limit the built form projecting above hedgerows and trees. From the west of Repton, views would be distant and the impact of the proposal would be “lost” within the existing urban form of Longlands, Springfield Road and Askew Grove. The impact on landscape character would therefore be modest, with on-site landscaping assisting in limiting this impact. At closer proximity the impact would be greater, but to a similar degree as would have been the case when the village expanded in the 1960s and 1970s. Closer proximity views up to the site from the east would be mostly obstructed by existing dwellings in the foreground.

Although not leading to the loss of the best and most versatile agricultural land, the proposal would bring about moderate visual harm and intrusion into this part of the countryside. Public aspects of the proposal would be total along the public footpath as it passes the site, and further aspects on the approach from Milton and Askew Hill would increase the prominence of this harm. Landscaping would help to assimilate the development not completely ameliorate this change, especially from higher level aspects. Consequently the moderate degree of visual harm weighs against the proposal and conflicts with EV1 and paragraphs 17 and 109 of the NPPF.

#### Heritage and archaeological impacts

There are no listed buildings in the vicinity to which it is considered there would be a direct impact upon. The site is also well outside the Conservation Area. There is however an unlisted pill box on the land. Its position provides comprehension as to its former use with clear aspects (at the time) down the slopes towards the centre of the village and the Trent beyond. According to the Council for British Archaeology just under a quarter of these World War II structures remain across the country, adding weight to the need to retain these heritage assets where appropriate and possible. This is considered to be one such location where this can be achieved, and it would also provide visual landmark upon entering the proposed development. The prospect of development adjacent is not felt to materially harm its setting given that housing which has been built to date. The applicant has indicated its retention and an appropriate condition can secure an appropriate scheme for its repair and retention.

The remaining focus is towards on-site archaeological potential, with EV1, EV14 and the NPPF requiring due consideration be given. The work carried out by the applicant identifies no sub-surface features beyond the remains of medieval ridge-and-furrow cultivation. It is considered that as this is of local archaeological interest at best, the principle of development can be supported. However there are documented records of Roman pottery and round barrows at Askew Hill, and of an Anglo-Saxon brooch and other metalwork nearby. The County Archaeologist feels that, on balance, there is still potential for small scale archaeological remains such that monitoring during the initial groundworks to identify and record any archaeological remains is felt to be proportionate. Paragraph 133 of the NPPF states where there is total loss of significance, local planning authorities should refuse consent unless it can be demonstrated that the loss is necessary to achieve substantial public benefits that outweigh that loss. Given the conditional approach recommended, and the wider

benefits of providing much needed housing in the district, it is considered there is insufficient weight to resist the proposal on heritage matters.

### Amenity impacts

As the proposal is in outline, the assessment of privacy and overshadowing impacts is whether the proposal could likely comply with the SPG. Existing gardens on Springfield Road and Longlands are some 15 to 20 metres long, meaning that compliance with the SPG seems highly probable. The likely arrangement of dwellings within the site is also considered to afford a reasonable degree of privacy to all occupants, both within the dwellings and in private amenity space. There are no known noise sources which could compromise the living standards for occupiers, and the Environmental Protection Officer does not consider at this time that control over the construction phase, such as restricting the hours of construction and deliveries, is necessary.

### Design and layout (inc. BfL and POS provision)

H11 of the SDLP seeks a reasonable environment for the public at large; reasonable amenities in terms of light, air and privacy for, both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping; adequate public open space; and for the development of any suitable adjoining land. Paragraphs 58, 60 and 61 of the NPPF reinforce this policy.

The Design Excellence Officer initially raised concern that the originally submitted scheme had not addressed some of the main issues raised at the pre-application stage, including the principle of backing new properties onto the backs of existing ones, and softening the landscape impact (particularly views when approaching from the east along the public footpath and avoiding development on the high ground in the south east corner). However the amended masterplan and DAS addendum has sought to address these points. The design also works around fixed constraints. This includes the need to position the access so to link to Longlands, the contours of the site meaning the eastern corner is well elevated whilst the north section is undevelopable in the main due to its narrow shape and there needing to be provision of SuDS on the low ground of the site. The proposed dwellings back onto existing housing where possible and front public spaces such as the eastern green corridor, the footpath and the open space. Provision is made for connections to the northern and southern portions of the preferred allocation, as well as enhanced connections to the footpath. Whilst only scoring 10.5 under BfL20 at the present time, in principle it is considered any reserved matters submission can both satisfy policy requirements and achieve a score of 14 or more.

### Drainage

The site has a considerable slope falling some 10 metres between the eastern edge and the western and north-western corners. It is unconstrained by Flood Risk mapping published by the EA, and there are no records of surface water flooding on site. The focus is on surface water drainage arising from the development.

The EA raises no objection subject to an appropriate surface water drainage scheme for the site, whilst the County strongly promote SuDS to be incorporated with an appropriate number of treatment stages. The applicant is proposing a single attenuation pond and then a discharge off site to a surface water sewer. The County suggests that rather than discharging above greenfield runoff rates, which may increase flood risk off

site, a self-contained drainage system with zero discharge off site through an increase in site storage would be appropriate. In addition there is an objective to prevent deterioration in 'status' for all waterbodies, which should achieve 'good ecological status' by 2015.

As the proposal is in outline only, the question is whether the site can be adequately drained. The applicant's work and the input from consultees so far indicate it can, although disagreeing somewhat as to the best method of surface water drainage. This will form an emphasis for the reserved matters stage, with the onus on the developer to demonstrate why on site solutions cannot appropriately accommodate all water before allowing limited flow connection to sewers. As to foul water, despite concerns from neighbours, Severn Trent Water raises no objection subject to a condition.

#### Balancing exercise and determining whether the development *is* sustainable

There are many factors in favour of the proposed development. Central to these is the provision of housing towards the 5-year supply and the wider housing needs of the District. This attracts significant weight. The economic benefits arising also add some weight to this. The reasonable connectivity of the site and the ability for the development to "cater for its needs" by way of providing commuted sums towards education and waste handling, as well as mitigating other impacts in this fashion, highlights its sustainability credentials. This all attracts further considerable weight in favour. The provision of an affordable housing sum to the equivalent of 30% not only complies with policy requirements, but allows this sum to be used to more appropriately address affordable housing needs in Repton. Furthermore the provision of a commuted sum towards the village hall represents a considerable community gain. The fact that there is not an unacceptable impact on highway safety and biodiversity, flood risk is not exacerbated elsewhere, and the site can provide for a suitable layout and design without significantly compromising residential amenity, is of significance as it demonstrates compliance with the NPPF as a whole.

Notwithstanding this there would be a moderate degree of visual harm brought about as well as total loss of existing ridge and furrow. The loss of the latter is regrettable, but it is not considered to preclude development. The balancing exercise is thus focussed towards visual and landscape impacts. A number of appeal decisions and case law (*Tewkesbury BC v SoSCLG & others [2013]*) are defining the manner in which paragraph 49 of the NPPF should be applied. Ultimately these decisions take the view that although paragraph 49 intends to ensure that housing need does not suffer to other policy considerations, it does not mean that those other considerations should be disregarded altogether. The protection of the environment is one of the three dimensions of sustainability (paragraph 7 of the NPPF) such that although countryside protection policies may influence housing supply, there are difficult balances to be struck. It is therefore apparent that relevant policies of the SDLP which are not concerned with the supply of housing land cannot be automatically "stood down". Policy EV1 is particularly relevant to this balancing exercise and remains a wholly relevant consideration. Notwithstanding this, the visual harm arising would be generally limited to the immediate area and ameliorated to some degree by way of landscaping. Viewers stood at long distance vantage points would find the development falls against or as part of the existing urban backdrop of this part of Repton. The site does not fall in a designated green wedge, or national designation such as an Area of Outstanding Natural Beauty or Green Belt. In a wider context this harm is not considered to make the development unsustainable, nor is it considered to be demonstrably adverse.

Consequently, the visual harm brought about by way of this development is considered to be outweighed by the significant benefits of providing housing towards the 5-year supply, including a generous affordable housing provision, and the ability to for the proposal to have acceptable impacts on other matters of importance (such as education or community needs or highway safety). The proposal is considered to be sustainable development to which a presumption in favour can apply and the recommendation below follows.

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

### **Recommendation**

**GRANT** permission subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the body of the report, and subject to the following conditions:

1. This permission is granted in outline under the provisions of Article 4(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2010, and the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters:
  - (a) access;
  - (b) appearance;
  - (c) landscaping;
  - (d) layout; and
  - (e) scale.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and  
(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

3. The reserved matters listed at condition 1 shall broadly be in accordance with the masterplan (ref: DL 5.3 (dated Nov 2013)), save for the position of the play equipment and SuDS within the public open space, and accompanied by the following specific detail:
  - (a) a Habitat Management Plan for all retained and created habitats including details of how the management will be funded and implemented;

- (b) design principles and calculations for the proposed SuDS, including cross-sections, plans and details of headwalls/outfalls/hydrobakes/etc;
- (c) details of boundary and surfacing treatments to public and private areas;
- (d) drawings and specifications to demonstrate the internal layout of the site accords with the Highway Authority's Policy Document "6Cs Design Guide" and national guidance laid out in Manual for Streets; and
- (e) a swept path diagram to demonstrate that emergency and service vehicles can adequately enter, manoeuvre within the site and leave in a forward gear.

Reason: For the avoidance of doubt, in order to secure an appropriate detailed design, in the interest of highway safety and in the interest of proper and efficient planning.

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

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

5. 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 safety on the public highway.

6. Notwithstanding the submitted drawings space shall be provided within the site for the parking of two vehicles per dwelling, subsequently laid out in accordance with any approved reserved matters drawings and maintained thereafter free of any impediment to its designated use.

Reason: To ensure adequate parking provision in the interests of safety on the public highway.

7. There shall be no gates or other barriers within 5 metres of the nearside highway boundary (proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5 metres from the highway boundary (proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public highway.

8. The gradient of the access shall not exceed 1:30 for the first 10 metres into the site from the existing highway boundary and 1:20 thereafter.

Reason: In the interests of safety on the public highway.

### Pre-commencement

9. No development or other operations on the site shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity.

10. (a) No development or other operations shall take place until a Written Scheme of Investigation (WSI) for archaeological work has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- (i) the programme and methodology of site investigation and recording;
  - (ii) the programme for post investigation assessment;
  - (iii) provision to be made for analysis of the site investigation and recording;
  - (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
  - (vi) nomination of a competent person or persons/organization to undertake the works set out within the WSI.
- (b) No development shall take place other than in accordance with the archaeological WSI approved under (a).
- (c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological WSI approved under (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

11. No development or other operations shall take place 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 agreed in advance with the Local Planning Authority, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'. Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.

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

12. No development or other operations shall take place until a surface water drainage scheme for the site (including proposed public and private highways, drives and parking areas), based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- (a) details of how the scheme shall be maintained and managed after completion;
  - (b) sustainable drainage techniques or SuDS incorporated into the design including a minimum two tier treatment train for the whole site;
  - (c) details to show the outflow from the site is limited to the maximum allowable rate (i.e. greenfield site run-off);
  - (d) that the surface water drainage system must deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculations must be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume);
  - (e) detailed designs of the proposed balancing pond(s), including cross-sections and plans; and
  - (f) the results of on-site water infiltration testing and, where relevant, evidence as to why on-site infiltration is not being maximised.

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

13. No development or other operations shall take place until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, except where replaced under the requirements of condition 16, free from any impediment to its designated use.

Reason: In the interests of safety on the public highway.

14. Before any other operations are commenced, excluding construction of the temporary access referred to in Condition 13 above, space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to and approved in writing by the Local Planning Authority. This space shall be maintained throughout the

construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of safety on the public highway.

15. No development shall take place until details of the finished floor levels of the dwellings and other buildings hereby approved, and of the ground levels of the site relative to adjoining land levels, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the agreed levels.

Reason: To ensure that the visual impact of the development is minimised as far as possible and to ensure acceptable impacts on adjoining residential property.

16. No development involving the construction of any house or associated outbuilding(s) shall take place until the access has been formed to Longlands. The access shall have a 5.5 metre wide carriageway, two 2 metre wide footways and be provided with two 6 metre radii.

Reason: In the interests of safety on the public highway.

17. No development shall commence until details of a scheme to secure the retention and restoration/repair of the World War II pillbox, along with arrangements for its maintenance thereafter, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented prior to the occupation of the final dwelling hereby approved and thereafter maintained in accordance with the approved scheme.

Reason: In the interests of preserving a locally significant heritage asset.

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

Reason: In the interests of flood protecting and pollution control.

19. No development shall commence until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first occupation of the development hereby permitted (or first occupation of the respective dwelling where private secure cycle parking facilities are proposed) and shall thereafter be retained for use at all times.

Reason: In the interests of encouraging the use of sustainable methods of transport.

#### Pre-occupation

20. No dwelling, the subject of the application, shall be occupied until the proposed new estate streets between that respective plot and the existing public highway

have been laid out in accordance with the application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of safety on the public highway and to ensure reasonable access for all users during the course of construction.

21. No dwelling, the subject of the application, shall be first occupied until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason: In the interests of encouraging the use of sustainable methods of transport.

22. Bin stores shall be provided within private land at the entrance to shared private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users, in accordance with a scheme first submitted and approved in writing by the Local Planning Authority. The approved facilities shall be provided prior to the first occupation of the dwelling(s) to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: To ensure adequate bin storage and collection for the development hereby approved.

#### Other

23. 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 Local Planning Authority without delay. The approved remediation scheme shall be implemented to the satisfaction of the Local Planning Authority.

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.

24. 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 first occupation of the dwellings 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. The publically landscaped areas shall be maintained as such

until these areas are transferred to the Local Authority or nominated maintenance company.

Reason: In the interests of visual amenity and to secure appropriate open space provision for occupiers of the dwellings hereby approved.

**Informatives:**

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations, and promptly 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.
- b. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- c. The applicant should be aware that a commuted sum will be payable for future maintenance in line with details published in the Highway Authority's Policy Document "6Cs Design Guide" for additional areas of highway (e.g. parking bays, highway trees, etc).
- d. The applicant is advised that the Council wishes to see the SuDS as presently proposed broken into a management train to improve water quality, and that the play equipment within the public open space moved to the northern part of the site with sufficient capacity for later improvements.
- e. For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire – Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department: [thomas.gunton@south-derbys.gov.uk](mailto:thomas.gunton@south-derbys.gov.uk).

Further guidance can be obtained from the following:

- CLR 11: Model Procedures for the Management of Contaminated Land
- CLR guidance notes on Soil Guideline Values, DEFRA and EA
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

- f. Once Schedule 3 of the Flood & Water Management Act (FWMA) is enacted, Derbyshire County Council (DCC) will be designated a SuDS Approval Body (SAB) and will be responsible for approving all construction works which have drainage implications. DCC will not retrospectively adopt any SuDS schemes. As such, should a SuDS solution be proposed for future development, the applicant should confirm prior to commencement of works on any proposed development who the responsible organisation for SuDS maintenance will be once the development is complete.
- g. The Highway Authority recommends that the first 5m of proposed access driveways 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.
- h. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway (new estate streets) 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.
- i. 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.
- j. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- k. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g: street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- l. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Streetworks Section).
- m. The site is abutted by Public Footpath 27 in the Parish of Repton, as shown on the Definitive Map. The route of the footpath and safety of its users should be protected at all times. With regard to the temporary or permanent diversion or

closure of the footpath, the applicant is required to contact Derbyshire County Council's Public Rights of Way section.

- n. The Crime Prevention Design Adviser has advised that in submitting details under a reserved matters application, that (1) all exposed housing elevations are well treated to allow a view between interiors and external space; (2) where housing is set in blocks of more than two properties rear garden access originates within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less; and that (3) the current open aspect of the footpath route and proposed links are not compromised by any landscaping sited between footpath and the development.
- o. Derbyshire County Council Flood Team suggests that rather than discharging surface water to a public sewer at above greenfield runoff rates, a self-contained drainage system, applying the SuDS management train with the appropriate number of treatment stages and zero discharge off site, should be considered. The applicant is advised to contact the Flood Team ([Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk)) should any advice on a suitable SuDS scheme for the future development be required. The applicant should seek to promote betterment or meet current greenfield runoff rates taking into account the impacts of climate change.
- p. New housing should be designed to addresses safety and the needs of vulnerable people. Domestic sprinkler systems are exceptionally effective through their ability to control a fire and help prevent loss of life. As a minimum, new residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems, and ideally should incorporate the sprinkler systems themselves. The cost of installing a 32mm mains water riser is approximately £26 per dwelling and the cost of a domestic sprinkler system is approximately £1500. Derbyshire Fire and Rescue Service can advise further on such provisions.

25/03/2014

**Item**            **1.2**

**Reg. No.**        **9/2013/1050/FM**

**Applicant:**  
**MR BRIAN DAVIES**  
**BRYMAR**  
**WOODSHOP LANE**  
**SWARKESTONE**  
**DERBY**  
**DE73 7JA**

**Agent:**  
**MR ALEX MASTERS**  
**MONTAGUE ARCHITECTS LTD**  
**9 VERNON STREET**  
**DERBY**  
**DE1 1FR**

**Proposal:**        **THE ERECTION OF 2 DWELLINGS INCLUDING NEW  
SHARED PRIVATE ACCESS DRIVE ON LAND TO THE  
REAR OF BRYMAR & WEGEN WOODSHOP LANE  
SWARKESTONE DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **23/12/2013**

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

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue.

#### **Site Description**

The application site is located within the Swarkestone Conservation Area and comprises parts of the rear gardens to Brymar and Wengen. It also includes a small piece of land forming part of the adjoining building site at The Corner. The site is a managed domestic garden situated within a residential area of mixed house types, the majority of which have been constructed since the 1960s. It is mainly laid to lawn with garden planting beds, small trees and managed boundary hedgerows.

The car park to the Grade II listed Crewe and Harpur public house lies at the eastern site boundary. The west boundary is shared with The Poplars and the new house under construction. The southern boundary abuts the rear garden to Corraithe, while the north boundary aligns with the rear garden of Willow Cottage, this property being set at a higher level fronting Barrow Lane.

There is a protected Beech tree (TPO No. 371) adjacent to the site in the garden of Wengen.

Part of the site connects with Barrow Lane along the line of a former canal cut. There is a drop of about 2 metres from the road into the site.



## **Proposal**

The application proposes two detached houses of conventional two storey design but incorporating habitable rooms within the steep pitched roofs. The buildings would be aligned with their main elevations facing Brymar/Wengen and the Crewe and Harpur car park respectively. A minor amendment reduces the number of roof lights in the east elevation to one per dwelling (with one bathroom roof light relocated to the west elevation).

Vehicular access would be gained via the existing abutment with Barrow Lane along the line of the old canal. The proposed access would be shared with the proposal for a garage to Brymar (application 9/2013/1051 on this agenda). Following local representation the applicant has amended the access by moving it about 2 metres to the west, in order to improve visibility towards Barrow Lane.

## **Applicants' supporting information**

- The access has been measured since the erection of a fence by the neighbour at Willow Cottage. Taking account of this the amended access provides a clear sight line to the A514 junction (2.4m x 110 m).
- The owners of the adjacent site have indicated a willingness to ensure that a 2 m verge is maintained to enable a possible future pedestrian path to be constructed along Barrow Lane.
- A habitats survey has been undertaken which concludes that there would be no detriment to protected species.
- Taking into account proposed ground levels, the new dwellings would be no higher than Brymar, and lower than The Poplars.
- Drainage investigation undertaken at the time of recent heavy rainfall show that at worst ground water would be some 1.5 m below proposed ground levels, which indicates that soakaways would work for surface water drainage. The ground is free draining and sandy.
- The agent confirms that the correct notice was served upon the owners of the additional land concerned at the time the application was originally deposited/registered and therefore no further notice is required at this time.

## **Planning History**

None relevant affecting the application site, but permissions have been recently granted for the new house at The Corner (9/2012/0842) and also at Willow Cottage (9/2013/0283) both involving the formation of new vehicular accesses onto Barrow Lane between the A514 junction and Woodshop Lane.

## **Responses to Consultations**

The Highway Authority commented on the initially submitted access arrangement as follows:

*“The achievable visibility from the proposed access in the eastern direction on to Barrow Lane is recognised as being restricted by the neighbouring hedge boundary fronting Willow Cottage. Thus, the achievable visibility to the nearside carriageway edge is below the recommended visibility distance of 43m from a set back (x)*

*distance of 2.4m, commensurate with the posted 30 mph speed limit. However, recent guidance does allow for visibility splays to be taken to a point 1m into the carriageway. On this basis, it is considered that a visibility distance of 35m can be achieved to a point 1m into the carriageway from an x distance of 2.4m. Whilst this is below the recommended visibility distance, it is considered that an objection on highway safety grounds purely on the basis of restricted visibility would be difficult to sustain.”*

The authority comments that the revised access layout demonstrates a significant increase in the achievable visibility. Therefore no objection is raised subject conditions.

The Contaminated Land Officer has no objection in principle.

Seven Trent Water Ltd has no comment.

### **Responses to Publicity**

Barrow on Trent Parish Council objects as follows:

- a) The new house under construction is too large and high and out of keeping with the conservation area.
- b) The new houses would similarly be too large, out of keeping with the conservation area and would dwarf neighbouring properties.
- c) The access would be dangerous and there is inadequate visibility. The road was closed by an accident in December. There have been other accidents and the road is used by motorcyclists exceeding the 30 mph speed limit.

20 objectors have expressed the following views:

- a) Although in the village confine and within a “Rural Village” as defined in the draft local plan, this is not previously developed land and thus does not carry a presumption in favour of development of such land.
- b) The village has little in the way of services and facilities.
- c) At the heart of sustainability is the objective of reducing reliance on the private car. There is only one point of access on a busy stretch of Class 1 highway with no footway or street lighting. Pedestrian movement toward the A514 junction would thus be dangerous and would exclude people with restricted mobility. Therefore the only way for occupants to enter or leave the site would be by the private car.
- d) The visibility splays shown by the applicant, and supporting highways information, are inaccurate. Visibility at the access would far from meet the minimum standard for vehicular access in a 30mph limit. Objectors have provided survey evidence to his effect.
- e) Traffic travels faster than 30 mph, particularly when accelerating from the A514 junction past the site. No speed survey has been undertaken.
- f) Speed readings taken by the County Council in 2011 show vehicle speeds consistently in the region of 40 mph, which would require greater visibility splays.
- g) The visibility splay appears to encroach onto third party land.
- h) The roadside hedge would grow and further obstruct visibility.
- i) The width and geometry of the access would cause large vehicles to make dangerous manoeuvres in the road and would encourage such manoeuvres.
- j) Service vehicles would otherwise have to park in the street.

- k) The amended access position would remain severely substandard. The visibility splay is measured to a point 1m into the carriageway. Splays should be measured to the carriageway edge.
- l) Motorcyclists and cyclists in particular would be put to unacceptable risk as they travel close to the nearside carriageway edge.
- m) There have been road accidents with injury recently and the death of a dog.
- n) There would be increased risk to pedestrians.
- o) Regular traffic congestion would cause dangerous manoeuvres from traffic leaving the site.
- p) There would be more traffic in Woodshop Lane.
- q) The dwellings would dominate the outlook of neighbours.
- r) The setting of the Crewe and Harpur and the character of the conservation area would be adversely affected.
- s) Although there has been infill development over the last 40 years the character of the conservation area is based on a small riverside hamlet, with narrow small cottages and some farm houses. The dwellings would be alien to that character, being 3 storeys with wide gables, which would dominate an attractive open tranquil spot amongst private rear gardens. There is no evidence that the dwellings have been designed for this site and they appear to be a variation on standard house types commonly seen elsewhere.
- t) This backland development would be alien to the grain of the settlement, which comprises outward looking frontage buildings.
- u) The access would destroy the archaeological and historic interest of the canal.
- v) The amended plans bring the application into conflict with the legal requirement to certify ownership and the application is thus invalid. [Officer comment: Taking into account the amendment to the access, the land owners remain the same. The same certificate therefore applies. The application was valid at the time of registration and remains so.]
- w) The route of the canal could become unstable when used for access.
- x) There would be increased risk of flooding.
- y) The site is too small for the development.
- z) The sewerage capacity in the village is inadequate.
- aa) There would be overlooking and loss of privacy to neighbours.
- bb) The site already ponds in wet weather. The loss of permeable surface and trees would increase the risk of surface water flooding to neighbours and climate change will further worsen the situation in this regard.
- cc) There would be substantial loss of mature trees. The trees have high amenity value and should be protected.
- dd) There would be loss of wildlife habitat, including bats.
- ee) There would be unacceptable loss of sunlight and daylight to Willow Cottage.
- ff) The development proposals do not incorporate sustainable design principles.
- gg) The applicants may not be able to connect to the mains sewer in Woodshop Lane as the drains pass under neighbours' land.
- hh) There would be noise and pollution from vehicles using the site.
- ii) The new access would be dangerously close to the new house under construction.

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Environment Policies 9, 11,12 & 13, Transport Policies 6 & 7.

The emerging Local Plan (Part 1) (“the emerging Plan”): Policy S2 (Presumption in favour of sustainable development) Policy S4 (Settlement Hierarchy) Policy BNL1 (Design Excellence) Policy I 2 (Sustainable Transport) Policy BNL2 (Heritage Assets).

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 6 (Delivering a wide choice of quality homes)

Chapter 7 (Requiring good design)

Chapter 11 (Conserving and enhancing the natural environment)

Chapter 12 (Conserving and enhancing the historic environment)

Paras 186 &187 (Decision-taking)

Para 193(Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

## **Planning Considerations**

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

- The principle
- Impact on heritage assets
- Highway safety
- Residential amenity

## **Planning Assessment**

### The principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in this NPPF indicate development should be restricted.”

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

In terms of the current Local Plan, Saved Housing Policy 5 defines a village confine within which the site lies. As such residential development is supported in principle by the development plan. The emerging Local Plan Policy S4 identifies Swarkestone as a ‘Rural Village’ within which small scale development is favoured in principle. This is consistent with Paragraph 55 of the NPPF, as is Saved Housing Policy 5 of the adopted Local Plan.

Although the village has few facilities there is a regular bus service with a bus stop in the grass verge about 60 m away at the corner of Woodshop Lane. It is therefore not the case that the occupiers of the new dwelling would be reliant on the private car for travel. Paragraph 29 of the NPPF recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. This is echoed in the emerging Local Plan Policy I 2. Given the limited scale of the development it does, in its rural context, represent sustainable development that is acceptable in principle, and thus also benefits from the presumption in Paragraph 14 of the NPPF

#### Impact on heritage assets

The settlement comprises two distinct typologies of the built form. The east side of the river displays the collection of small cottages and farmsteads as described in the objections. However, as was observed by an Inspector in 1991, following a public inquiry into the refusal of planning permission for the land now occupied by the dwellings between Woodshop Lane House and Meadow Farm, the detached houses in the lane impart a somewhat suburban appearance to the area. In making his analysis of the area’s character the inspector noted the mix of traditional and modern buildings in Woodshop Lane and concluded that as a consequence of the post 1960s development this part of Woodshop Lane now lacks any sense of visual or architectural coherence. Similar comments can be applied to the development along Barrow Lane. It is this acknowledged context within which the visual impact of the proposed development must now be considered.

The design and scale of the new dwellings would not be at odds with the range of house styles in the triangle defined by Derby Road, Barrow Lane and Woodshop Lane. In particular the dwellings would be no higher than the immediate neighbours Brymar and The Poplars, by reference to the topographical survey and the applicant’s stated site levels. The dwellings, in particular their roofs would be visible from Derby Road across the Crewe and Harpur car park (and from the car park itself), as are the roofs of existing houses in Woodshop Lane and Barrow Road. In terms of impact on the setting of the listed building and the conservation area in general it would be difficult to describe the resultant change as anything but neutral. Although the line of the old canal and winding hole can still be identified it is now without any meaningful context as the entire link has long since been filled in. The proposed access would therefore not result in the loss of any meaningful heritage asset. As such the proposal would preserve the character of

the conservation area and the setting of the Crewe and Harpur, compliant with Local Plan Saved Environment Policies 12 & 13, Chapter 12 of the NPPF and Policy BNL2 of the emerging plan. For similar reasons the dwellings would be in scale and character with the village in accordance with Saved Housing Policy 5 and Chapter 7 of the NPPF.

There would be some tree loss, in particular at the point of access. None of the trees that would be felled are particularly valuable as specimens in their landscape setting. Nevertheless the trees that provide screening to the Crewe and Harpur boundary would not be affected by the application. The Beech tree TPO 371 in the garden to Wengen would not be harmed by the development. Therefore there would be no adverse impact on the character and appearance of the conservation area, or the site's landscape setting, through the loss of trees. Appropriate new planting could be secured by condition in accordance with Local Plan Saved Environment Policy 9.

#### Highway safety

Notwithstanding community objections the Highway Authority has provided a considered response to the proposed new access. There was no objection to the original access proposals as reported above. The authority comments that the revised access layout demonstrates a significant increase in the achievable visibility. Subject to the recommended conditions access, parking and manoeuvring space associated with the development would therefore be compliant with Saved Transport Policy 6 of the adopted Local Plan.

Given the close proximity of Woodshop Lane and the bus stop, accessible at close quarters via a reasonably wide verge, pedestrians would not be put to unacceptable risk. Because of this the proposal would be in conformity with Saved Transport Policy 7.

#### Residential amenity

The proposal comfortably meets the separation distances set out in the adopted supplementary planning guidance. The driveway would be sufficiently far away from neighbouring dwellinghouses such that disturbance from traffic would not be unreasonable. Therefore there would be no demonstrable harm to the amenities of existing neighbours and reasonable amenities for the occupiers of the new houses. There would also be a reasonable environment for the public at large, adequate private amenity space and space for landscaping. Given the preceding assessment of highway safety issues, the layout would be safe functional and convenient, all in accordance with Saved Housing Policy 11 of the Local Plan.

#### Other Matters

The ecology report identifies measures to protect and enhance the site's habitat value. Appropriate conditions in accordance with the recommendations of that report would ensure compliance with Paragraph 118 of the NPPF and Local Plan Saved Environment Policy 11D.

Following assessment by the Council's Engineer there is no evidence that the development would exacerbate flooding or that it could not be drained.

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. This permission shall relate to the amended drawing nos. 2123- 12 Rev B, 13 Rev B, 14 Rev A, 15 Rev A & 17 Rev A.  
Reason: For the avoidance of doubt.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have 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 ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.
4. Large scale details to a minimum scale of 1:10 of eaves, verges, chimneys and external joinery, including horizontal and vertical sections, precise configuration of opening lights and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before being incorporated in the building. The items shall be constructed in accordance with the approved details.  
Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.
5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.
6. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

7. Gutters and downpipes shall have a black finish.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

8. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

9. A sample panel of pointed brickwork/stonework 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.

10. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13 and to ensure that the amenities of neighbours are protected in accordance with Saved Housing Policy 11.

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

Reason: In the interests of flood protection.

12. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13.

13. 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 and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13.

14. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree to be retained on site. The scheme shall comply with BS 5837:2005.

No site clearance works or development shall be commenced in the vicinity of any protected tree until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

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

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13.

15. Before the first occupation of the development, or in accordance with an agreed timetable, measures to enhance biodiversity on the site shall be implemented in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policy 11.

16. Before any other operations are commenced a new vehicular access shall be created to the A5132 Barrow Lane in accordance with application drawing no. 2123-14 Rev A, constructed to a minimum width of 4.75m for at least the first 5m into the site from the highway boundary. The access shall be provided with visibility splays of 2.4m x 43m in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

17. The development shall not be occupied until space has been provided within the application site in accordance with the application drawing no. 2123-14 Rev A for

the parking and manoeuvring of residents', visitors', service and delivery vehicles, and shall be laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

18. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

19. There shall be no gates or other barriers within 5 metres of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

20. The proposed access drive to A5132 Barrow Lane shall be no steeper than 1 in 12 for the first 10 metres from the nearside highway boundary.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

#### Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Economy, Transport and Environment Department of Derbyshire County Council before any works commence on the vehicular access within highway limits, please contact Joanne Mason on 01629 538612 for further information.

2. 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.

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 suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

25/03/2014

**Item**            **1.3**

**Reg. No.**        **9/2013/1051/FH**

**Applicant:**  
**MR BRIAN DAVIES**  
**BRYMAR**  
**WOODSHOP LANE**  
**SWARKESTONE**  
**DERBY**  
**DE73 7JA**

**Agent:**  
**MR ALEX MASTERS**  
**MONTAGUE ARCHITECTS**  
**9 VERNON STREET**  
**DERBY**  
**DE1 1FR**

**Proposal:**        **THE CONVERSION OF GARAGE INTO LIVING  
ACCOMMODATION AND THE ERECTION OF A NEW  
GARAGE HOBBY ROOM WORKSHOP WITH  
ASSOCIATED NEW ACCESS DRIVE AT BRYMAR  
WOODSHOP LANE SWARKESTONE DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **23/12/2013**

**Reason for committee determination**

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue.

**Site Description**

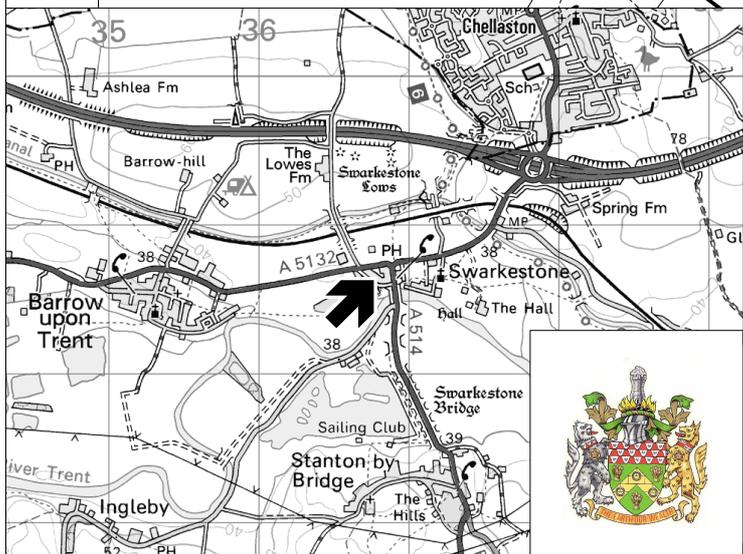
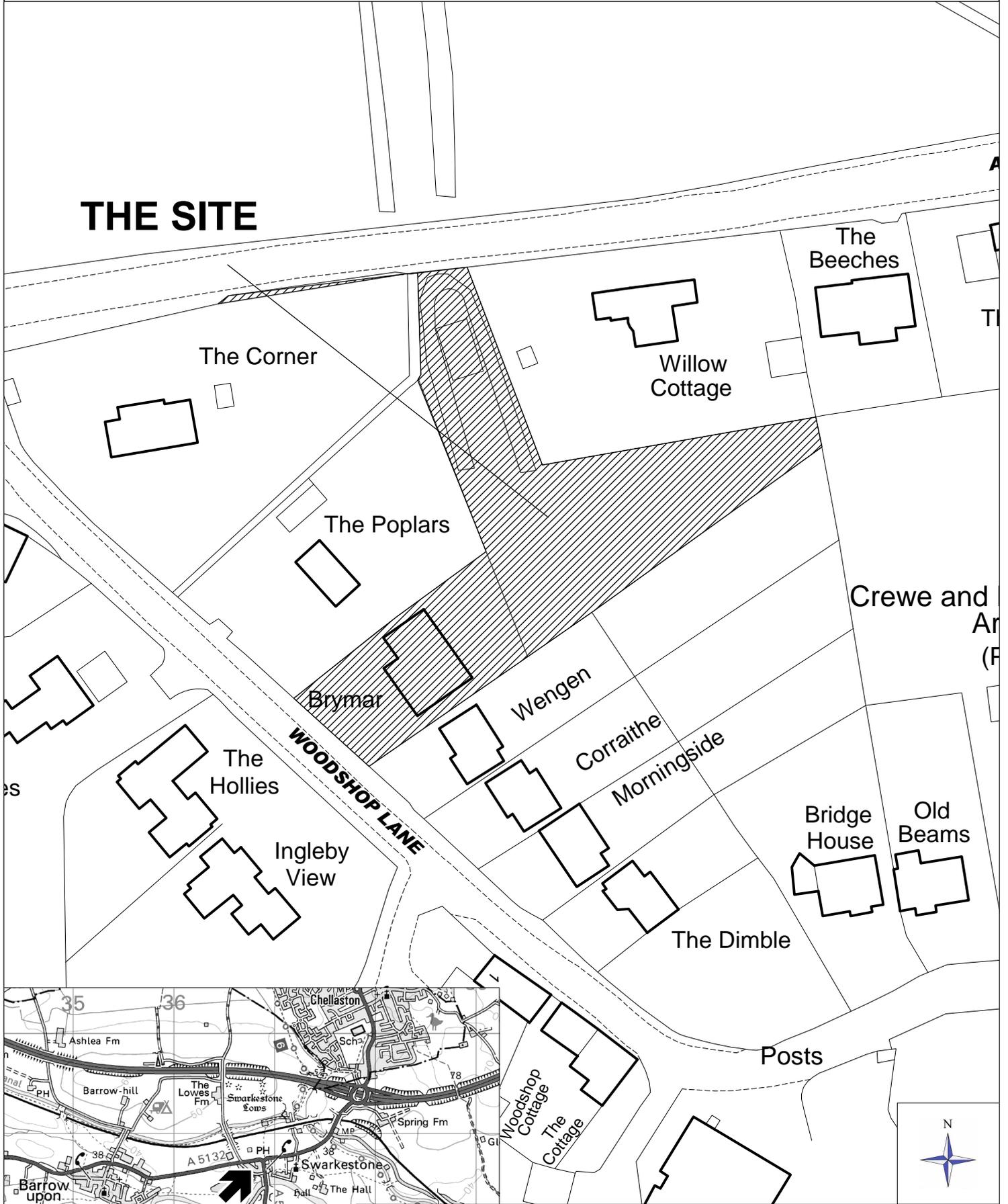
The application site is located within the Swarkestone Conservation Area and includes a small piece of land forming part of the adjoining building site at The Corner. The site is a managed domestic garden situated within a residential area of mixed house types, the majority of which have been constructed since the 1960s. It is mainly laid to lawn with garden planting beds, small trees and managed boundary hedgerows.

The car park to the Grade II listed Crewe and Harpur public house lies at the eastern boundary of the garden. The west boundary is shared with The Poplars and the new house under construction. The southern boundary abuts the rear garden to Wengen, while the north boundary aligns with the rear garden of Willow Cottage, this property being set at a higher level fronting Barrow Lane.

There is a protected Beech tree (TPO No. 371) adjacent to the site in the garden of Wengen.

Part of the site connects with Barrow Lane along the line of a former canal cut. There is a drop of about 2 metres from the road into the site.

# THE SITE



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**South Derbyshire District Council. LA 100019461. 2010**

## Proposal

The application proposes a pitched roof detached double garage and hobby room in the rear garden. Vehicular access would be formed via the existing abutment with Barrow Lane along the line of the old canal. The proposed access would be shared with the proposal for two dwellings (application 9/2013/1050 on this agenda). Following local representation the applicant has amended the access by moving it about 2 metres to the west, in order to improve visibility towards Barrow Lane.

The existing integral garage would be converted to a dining room, with a new bay window.

## Applicants' supporting information

- The access has been measured since the erection of a fence by the neighbour at Willow Cottage. Taking account of this the amended access provides a clear sight line to the A514 junction (2.4m x 110 m).
- The owners of the adjacent site have indicated a willingness to ensure that a 2 m verge is maintained to enable a possible future pedestrian path to be constructed along Barrow Lane.
- A habitats survey has been undertaken which concludes that there would be no detriment to protected species.
- Drainage investigation undertaken at the time of recent heavy rainfall show that at worst ground water would be some 1.5 m below proposed ground levels, which indicates that soakaways would work for surface water drainage. The ground is free draining and sandy.
- The agent confirms that the correct notice was served upon the owners of the additional land concerned at the time the application was originally deposited/registered and therefore no further notice is required at this time.

## Planning History

None relevant affecting the application site, but permissions have been recently granted for the new house at The Corner (9/2012/0842) and also at Willow Cottage (9/2013/0283) both involving the formation of new vehicular accesses onto Barrow Lane between the A514 junction and Woodshop Lane.

## Responses to Consultations

The Highway Authority commented on the initially submitted access arrangement as follows:

*"The achievable visibility from the proposed access in the eastern direction on to Barrow Lane is recognised as being restricted by the neighbouring hedge boundary fronting Willow Cottage. Thus, the achievable visibility to the nearside carriageway edge is below the recommended visibility distance of 43m from a set back (x) distance of 2.4m, commensurate with the posted 30 mph speed limit. However, recent guidance does allow for visibility splays to be taken to a point 1m into the carriageway. On this basis, it is considered that a visibility distance of 35m can be achieved to a point 1m into the carriageway from an x distance of 2.4m. Whilst this is below the recommended visibility distance, it is considered that an objection on*

*highway safety grounds purely on the basis of restricted visibility would be difficult to sustain.”*

The authority comments that the revised access layout demonstrates a significant increase in the achievable visibility. Therefore no objection is raised subject conditions.

### **Responses to Publicity**

County Councillor R Davison objects because drivers heading west do not anticipate emerging traffic before Woodshop Lane and would not be sufficiently aware of vehicles using the new access. He is also concerned that the gradient of the access would provide insufficient level surface so as to avoid clutch and handbrake vehicle control.

Barrow on Trent Parish Council objects because the access would be dangerous and there is inadequate visibility. The road was closed by an accident in December. There have been other accidents and the road is used by motorcyclists exceeding the 30 mph speed limit.

16 objectors have expressed the following views:

- a. The visibility splays shown by the applicant, and supporting highways information, are inaccurate. Visibility at the access would far from meet the minimum standard for vehicular access in a 30mph limit. Objectors have provided survey evidence to his effect.
- b. Traffic travels faster than 30 mph, particularly when accelerating from the A514 junction past the site. No speed survey has been undertaken.
- c. The visibility splay appears to encroach onto third party land.
- d. The roadside hedge would grow and further obstruct visibility.
- e. The width and geometry of the access would cause large vehicles to make dangerous manoeuvres in the road and would encourage such manoeuvres.
- f. Service vehicles would otherwise have to park in the street.
- g. The amended access position would remain severely substandard. The visibility splay is measured to a point 1m into the carriageway. Splays should be measured to the carriageway edge.
- h. Motorcyclists and cyclists in particular would be put to unacceptable risk as they travel close to the nearside carriageway edge.
- i. There have been road accidents with injury recently and the death of a dog.
- j. There would be increased risk to pedestrians.
- k. Regular traffic congestion would cause dangerous manoeuvres from traffic leaving the site.
- l. There would be more traffic in Woodshop Lane.
- m. The setting of the Crewe and Harpur and the character of the conservation area would be adversely affected.
- n. The access would destroy the archaeological and historic interest of the canal.
- o. The amended plans bring the application into conflict with the legal requirement to certify ownership and the application is thus invalid. (Officer comment: Taking into account the amendment to the access, the land owners remain the same. The same certificate therefore applies. The application was valid at the time of registration and remains so.)
- p. The route of the canal could be become unstable when used for access.
- q. There would be increased risk of flooding.

- r. The site already ponds in wet weather. The loss of permeable surface and trees would increase the risk of surface water flooding to neighbours and climate change will further worsen the situation in this regard.
- s. There would be substantial loss of mature trees. The trees have high amenity value and should be protected.
- t. There would be loss of wildlife habitat, including bats.
- u. There would be noise and pollution from vehicles using the site.
- v. Brymar would lose its garage at the front.

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Environment Policies 9, 11,12 & 13, Transport Policy 6.

The emerging Local Plan (Part 1) (“the emerging Plan”): Policy S2 (Presumption in favour of sustainable development) Policy BNL1 (Design Excellence) Policy BNL2 (Heritage Assets).

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 7 (Requiring good design)

Chapter 11 (Conserving and enhancing the natural environment)

Chapter 12 (Conserving and enhancing the historic environment)

Paras 186 &187 (Decision-taking)

Para 193(Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

## **Planning Considerations**

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

- The principle
- Impact on heritage assets
- Highway safety
- Residential amenity

## **Planning Assessment**

### The principle

The garage would be located within the garden of the host dwelling and would remain within the existing planning unit. For this reason the proposal is acceptable as a matter of principle.

### Impact on heritage assets

The settlement comprises two distinct character areas. The east side of the river displays the collection of traditional small cottages and farmsteads. However, as was observed by an Inspector in 1991, following a public inquiry into the refusal of planning permission for the land now occupied by the dwellings between Woodshop Lane House and Meadow Farm, the detached houses in the lane impart a somewhat suburban appearance to the area. In making his analysis of the area's character the inspector noted the mix of traditional and modern buildings in Woodshop Lane and concluded that as a consequence of the post 1960s development this part of Woodshop Lane now lacks any sense of visual or architectural coherence. Similar comments can be applied to the development along Barrow Lane. Within this acknowledged context the new garage and alterations to the host dwelling would be small scale with neutral impact, preserving the character and appearance of the conservation area and the setting of the Crewe and Harpur. Although the line of the old canal and winding hole can still be identified it is now without any meaningful context, as the entire link has long since been filled in. The proposed access would therefore not result in the loss of any meaningful heritage asset. As such the proposal would preserve the character of the conservation area and the setting of the Crewe and Harpur, compliant with Local Plan Saved Environment Policies 12 & 13, Chapters 7 & 12 of the NPPF and Policy BNL2 of the emerging plan.

There would be some tree loss, in particular at the point of access. None of the trees that would be felled are particularly valuable as specimens in their landscape setting. Nevertheless the trees that provide screening to the Crewe and Harpur boundary would not be affected by the application. The Beech tree TPO 371 in the garden to Wengen would not be harmed by the development. Therefore there would be no adverse impact on the character and appearance of the conservation area, or the site's landscape setting, through the loss of trees. Appropriate new planting could be secured by condition in accordance with Local Plan Saved Environment Policy 9.

### Highway safety

Notwithstanding community objections, the Highway Authority has provided a considered response to the proposed new access. There was no objection to the original access proposals as reported above. The authority comments that the revised access layout demonstrates a significant increase in the achievable visibility. Subject to the recommended conditions access, parking and manoeuvring space associated with the development would therefore be compliant with Saved Transport Policy 6 of the adopted Local Plan.

Subject to the recommended conditions the access, parking and manoeuvring space associated with the development would therefore be compliant with Saved Transport Policy 6 of the adopted Local Plan.

### Residential amenity

The proposed garage would have negligible impact on neighbours in terms of its size and appearance. The driveway would be sufficiently far away from neighbouring dwellings such that disturbance from traffic would not be unreasonable. Therefore there would be no demonstrable harm to the amenities of existing neighbours.

## Other Matters

The ecology report identifies measures to protect and enhance the site's habitat value. Appropriate conditions in accordance with the recommendations of that report would ensure compliance with Paragraph 118 of the NPPF and Local Plan Saved Environment Policy 11 D.

Following assessment by the Council's Engineer there is no evidence that the development would exacerbate flooding or that it could not be drained.

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. Notwithstanding the originally submitted details, this permission shall relate to the submitted drawing nos. 2123-11 & 20 and amended drawing nos. 2123 -10 Rev A, 18 Rev A & 16 rev A.  
Reason: For the avoidance of doubt.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have 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 ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13
4. Gutters and downpipes shall have a black finish.  
Reason: To ensure that the development preserves the character of the conservation area and the setting of the adjacent listed building in accordance with Local Plan Saved Environment Policies 12 & 13.
5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.  
Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13.

6. 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 and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13.

7. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree to be retained on site. The scheme shall comply with BS 5837:2005.

No site clearance works or development shall be commenced in the vicinity of any protected tree until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created;

without the prior written consent of the Local Planning Authority.

Reason: In the interests of the appearance of the area and biodiversity to comply with Local Plan Saved Environment Policies 9, 11,12 & 13

8. Before any other operations are commenced a new vehicular access shall be created to the A5132 Barrow Lane in accordance with application drawing no. 2123-10 Rev A, constructed to a minimum width of 4.75m for at least the first 5m into the site from the highway boundary. The access shall be provided with visibility splays of 2.4m x 43m in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

9. The development shall not be brought in to use until space has been provided within the application site in accordance with the application drawing no. 2123-10 Rev A for the parking and manoeuvring of residents', visitors', service and delivery vehicles, and shall be laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

10. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

11. There shall be no gates or other barriers within 5 metres of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

12. The proposed access drive to A5132 Barrow Lane shall be no steeper than 1 in 12 for the first 10 metres from the nearside highway boundary.

Reason: In the interest of highway safety and to comply with Local Plan Saved transport Policy 6.

#### Informatives:

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. 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.

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Economy, Transport and Environment Department of Derbyshire County Council before any works commence on the vehicular access within highway limits, please contact Joanne Mason on 01629 538612 for further information.

2. 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.

25/03/2014

**Item**            **1.4**

**Reg. No.**        **9/2013/1052/B**

**APPLICANT:**  
**MR D GIDDA**  
**NADEE INDIAN CUSINE**  
**130 HEATH LANE**  
**FINDERN**  
**DERBY**  
**DE65 6AR**

**AGENT:**  
**PETER DIFFEY & ASSOCIATES LTD**  
**COTESBACH VILLA**  
**54 WOODS LANE**  
**STAPENHILL**  
**BURTON ON TRENT**  
**DE15 9DB**

**Proposal:**        **THE VARIATION OF CONDITION 1 OF PLANNING**  
**PERMISSION 9/2010/0464 TO EXTEND THE PERIOD OF**  
**TEMPORARY CONSENT AT NADEE INDIAN CUISINE**  
**130 HEATH LANE FINDERN DERBY**

**Ward:**            **WILLINGTON & FINDERN**

**Valid Date:**     **07/01/2014**

**Reason for committee determination**

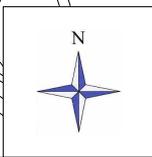
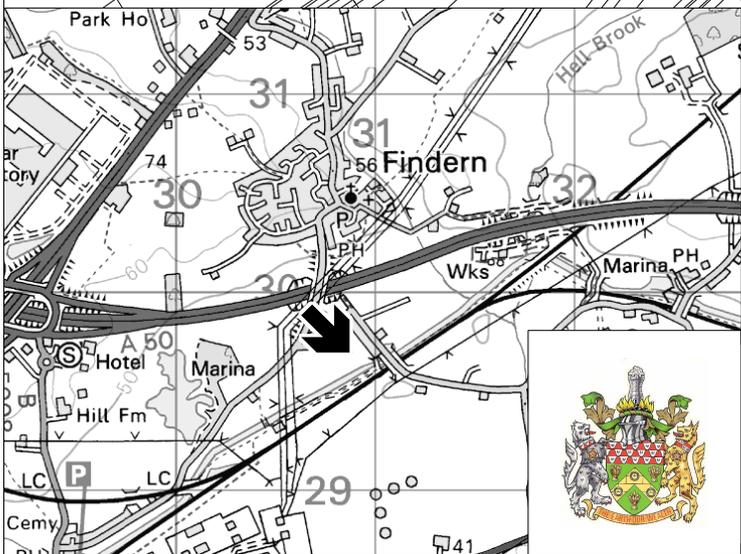
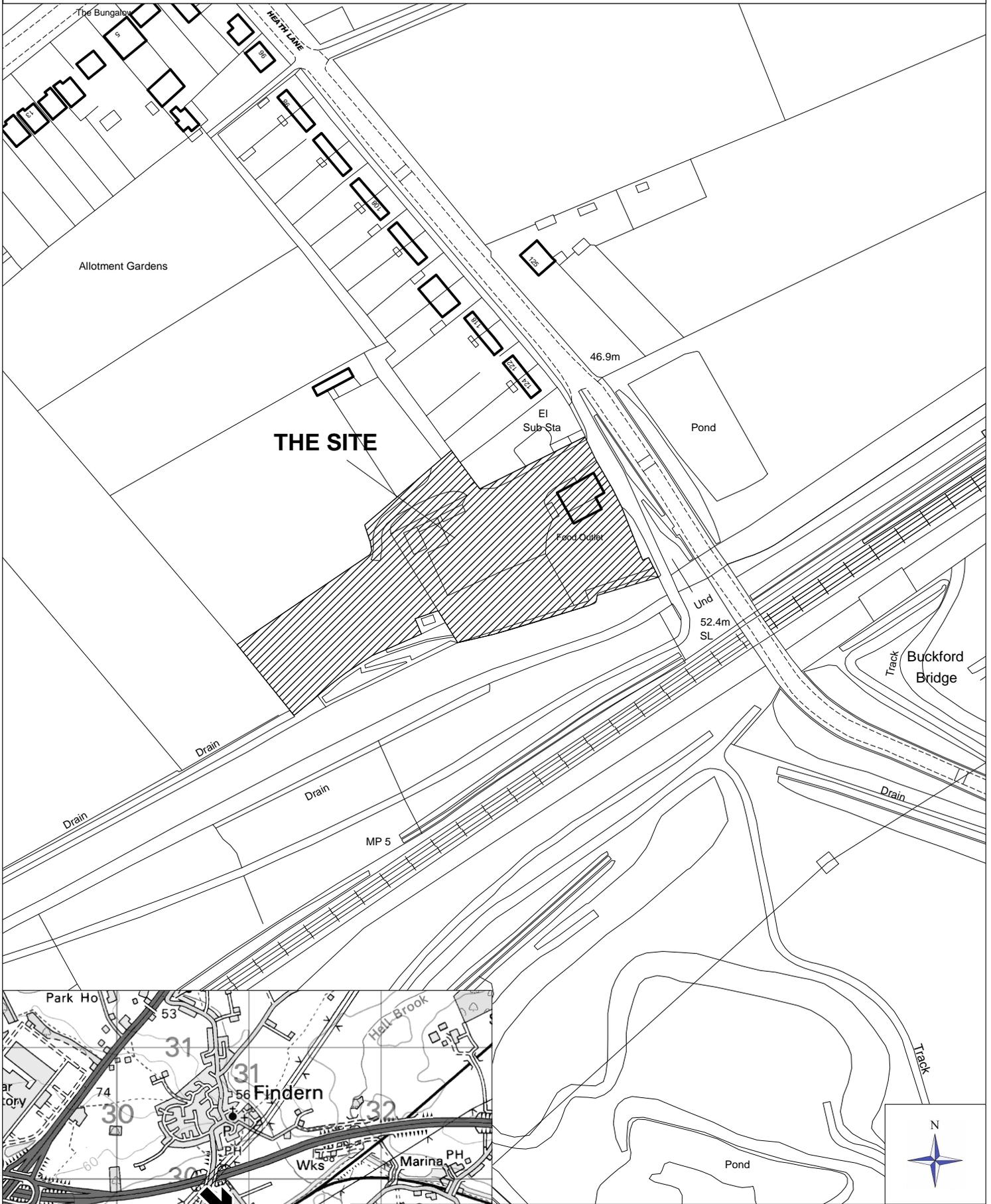
The item is brought to committee because an objection is raised by a statutory consultee but a grant of permission is recommended.

**Site Description**

The application is located within open countryside at the end of ribbon residential development fronting onto Heath Lane to the south of Findern. The site also lies within the Trent and Mersey Canal Conservation Area and is generally open fronted to the canal which lies to the south. The site comprises of the Nadee restaurant and bar, formerly used as a public house, an outside seating area, car park and a marquee and permanent buildings. To the west of the marquee is an area of grassland enclosed by hedgerow on three sides with post and rail fence to the adjacent paddock to the north-west. This is also used by adjacent canal moorings. To the north are residential properties which front onto Heath Lane with gardens extending south-west towards a paddock beyond which is agricultural land. The site is bounded to the east by a canal side access road that provides access to the Nadee and a bridge joining the public footpath which follows the towpath of the Trent and Mersey Canal. The access road joins Heath Lane at an acute angle where the road begins to rise over the canal and adjacent railway.

The marquee already exists through the benefit of a previous permission given in 2010. It measures 20m x 16m and is an open double-pitched marquee with a maximum height of 4.8m. The permanent buildings are set behind the marquee to the north and west and

9/2013/1052 - Nadee, 130 Heath Lane, Findern DE65 6AR



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are flat roofed structures measuring less than 3m in height and constructed in dark painted block work.

### **Proposal**

The application follows approval of the 2010 application for the retention of the marquee and its use (along with adjacent buildings and ancillary facilities such as the car park) to provide for events associated with the adjacent restaurant/bar business. The approval was however given on a temporary basis for a period of 5 years, following which the marquee and adjacent buildings should be removed and the land reinstated. A further condition limited the number of functions allowed within the marquee to no more than 2 per week, and no later than 10:30pm Sunday to Thursday or 12.00am Friday and Saturday.

The applicant seeks extension of the temporary period of consent until February 2019 by variation of condition 1 attached to the 2010 permission. Other conditions would remain in force where still applicable.

### **Applicants' supporting information**

A supporting letter is provided with the application. This outlines the main reason behind the application – namely to give the applicant certainty over taking bookings some 18 months to 2 years in advance. With the existing permission expiring in August 2015, this gives only approximately 17 months at the time of this report.

### **Planning History**

- 9/2010/0464: The regularisation of use of temporary marquee as restaurant/events facility, retention of buildings used as reception area, bar, kitchens, toilets and outside store, plus use of a container for storage and use of land for car parking together with enlargement of the existing car park – Approved August 2010
- 9/2007/0109: The retention of two breeze houses (gazebos) and a lamp/camera standard – Approved March 2007
- 9/2004/1373: The erection of two garages, a gazebo, external alterations and new access – Approved March 2005
- 9/2004/1008: The erection of two garages, a gazebo, external alterations and new access – Withdrawn
- 9/2003/0727: The display of illuminated signage – Approved August 2003

### **Responses to Consultations**

The Canal and River Trust raises no objection, commenting however that the application site includes a significant area of land within the Trust's ownership and the Applicant should ensure that any necessary consents from the Trust are obtained to allow continued use of the land.

The County Archaeologist raises no objection.

The County Highway Authority raises objection on the grounds that the original proposal led to intensification in the use of a substandard access onto Heath Lane in terms of severely restricted visibility. It is considered this leads to a danger and inconvenience to other road users and interferes with the safe and efficient movement of traffic on the public highway. As the access remains unaltered from the original proposal, it considers the original objection remains valid.

The Environmental Health department makes no objection to the application. It is noted through further discussion that a noise nuisance has not been substantiated.

The Environmental Protection officer (Contaminated Land) makes no objection or comments.

### **Responses to Publicity**

An objection has been received from an immediate neighbour to the premises. They note they have complained on numerous occasions to the Environmental Health department regarding noise pollution from the many events held in the marquee, occurring late into the evening, over the past few years. They state they have been unable to hear their television or sleep due to the noise, and that Environmental Health has been investigating (with the aid of noise recording equipment at their dwelling) alleged breaches of the premises licence. They hold that these matters have been very stressful and disruptive to their life. They also have concerns that the nature of the premises is becoming more akin to a nightclub and that increased traffic is affecting the integrity of the public highway.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Employment Policy 1 (E1), Environment Policies 1 and 12 (EV1 and EV12), and Transport Policy (T6); and
- Emerging Local Plan (Part 1): BNL2 (Heritage Assets), SD8 (Amenity) and I2 (Sustainable Transport).

### **National Guidance**

- National Planning Policy Framework (NPPF): paragraphs 6, 7, 8, 11, 12, 14, 17, 19, 28, 32, 39, 58, 61, 70, 120, 122, 123, 129, 131, 132, 134, 139, 186, 187, 196, 197, 203, 206, 215 and 216.
- National Planning Policy Guidance (NPPG).

### **Planning Considerations**

The principle of development here has been established by way of the 2010 permission. It is therefore not intended to discuss matters relating to expansion of the existing business and employment opportunities, nor the expansion and sustaining of existing services and facilities. Attention is instead focussed towards the outward effects of the application, namely:

- The visual impact of the proposal on the appearance and character of the area, including the Conservation Area;
- The impact on neighbouring amenity; and
- The impact on highway safety.

## **Planning Assessment**

### Visual impact and the effect on the Conservation Area

The temporary period of consent was given *“in the interests of the appearance of the Trent and Mersey Canal Conservation Area and to ensure the quality of the temporary structures do not significantly deteriorate to the detriment of the appearance of the area”*. The NPPG provides guidance on the use of conditions to ensure a temporary period of consent. The guidance does make allowance for “trial runs” so to enable proper assessment of the effect of the development on the area. It goes further to state a second temporary permission should not *normally* be granted, suggesting a single trial period should be sufficient so that by its expiry it is clear whether permanent permission or a refusal is the right answer.

The situation as to the visual impact of the marquee and associated buildings on the Conservation Area is no different to that in 2010. In short, a permanent utilitarian structure in this location was not considered to be acceptable by Members. It would therefore normally follow this proposal should be refused given the above guidance..

However the circumstances of the applicant’s business are material considerations. Certainty it is necessary in order to plan ahead in business terms, and some 18 to 24 months is sought in this respect. This is not unreasonable given the marquee is generally used to provide for wedding functions – events which need to be booked some 1 to 2 years ahead so to secure a desired venue. The remaining period on the existing permission does not provide adequate flexibility here. Notwithstanding this, there is the risk that this argument is repeated at the end of a further temporary period of consent (if allowed). It is also of material consideration that the applicant has been engaging with officers for a number of months prior to submitting this application, and continues to do so now, with a view to providing a more appropriate solution. It is clear the applicant’s intentions in this respect are good, and coupled with the emphasis of the NPPF and corporate objectives to support local businesses; an extension to the temporary period of consent can be supported in principle. The Heritage and Conservation Officer has also raised no objection to a further period of temporary consent.

Further attention is given to the appropriate extension of time. The applicant seeks 5 years. However it is considered this is excessive and when weighed against the ultimate aim to find a more appropriate visual solution, is unjustified. Given only 18 to 24 months certainty is required, a period up to end of October 2016 would not only cover this period but also allow for the summer 2016 season to be accommodated but sufficient time to attempt to secure a permanent consent for an appropriate replacement. Construction of any permanent solution granted permission could then take place to allow for the peak season in 2017 to be accommodated. This approach also invests a sense of urgency in the applicant’s mind to pursue an application for a more appropriate solution.

### Neighbouring amenity

The existing permission carries a condition specifying the hours of use of the marquee and the number of functions which can occur each week. It was acknowledged in 2010 there is a likelihood that noise will emanate from the marquee by the very nature of the structure. The nearest residential property remains as 124 Heath Lane, the dwelling of which is situated approximately 22 metres from the edge of the application site and approximately 54 metres from the nearest edge of the marquee with the rear garden extending up to the northern corner of the site. Notwithstanding this, Environmental Health officers did not object to the proposal then subject to the aforementioned controls and noting that the premises licence requires the use of a noise meter to ensure neighbours are not adversely affected.

Environmental Health officers continue to raise no objection to the proposal, subject to condition, noting that even following the use of recording equipment a statutory nuisance cannot be substantiated. It is material also that excessive noise can still be controlled under Environmental Health legislation. Notwithstanding this the proposal is evidently causing some disturbance to the neighbour as outlined in the representation received. Consideration is given to the conditions previously imposed. The combination of a limit on the number of events to 2 per week, events finishing no later than 10.30pm weekdays and 12 midnight at weekends, and the use of a noise limiter are all considered to afford an acceptable balance between the continued operation of the business and residential amenity.

#### Highway safety

On emerging from the access onto Heath Lane vehicles would be required to do a U-turn in order to turn right over the bridge. The highway verge to the right of the junction is marked by post and wire fencing with a lamppost at the corner of the junction. The road rises to the south-east towards the bridge over the railway and canal. The Highway Authority commented on the 2004 approval that any extension to the facility would be unlikely to receive a favourable response due to the substandard visibility available to emerging drivers; their response to the 2010 formally set out this view and their objection to this application continues to sustain this concern.

However, it is of significance that Members granted permission for the proposal in 2010, contrary to this advice. It is of importance to note that the temporary period of consent was not based on highway safety grounds. Moreover it is understood there have been no accidents relating to the use of this access since the marquee was first used. Consequently, despite the highway objection, it seems doubtful that a refusal could be sustained on highway safety grounds – especially when the access has continued to provide safe egress for some 3.5 years or more.

#### Conclusion

On balance there is not considered to be substantive reason to refuse permission leading to the removal of the marquee and associated buildings in September 2015. Notwithstanding this, it is considered the period of temporary consent should only be extended as far as October 2016 to ensure a more appropriate design solution is found and secured for the site, in order to ensure compliance with saved policy EV12 and relevant provisions of the 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. This permission shall be for a limited period only, expiring on 31 October 2016 on or before which date the structures, consisting of the marquee and adjacent buildings as identified on drawing ref: 12930-02 Rev P (received 18 May 2010 under planning application 9/2010/0464) shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: In the interests of the appearance of the Trent and Mersey Canal Conservation Area and to ensure the quality of the temporary structures does not significantly deteriorate to the detriment of the appearance of the area.

2. The marquee shall only be open to customers Monday to Sunday between 0800 hours and 1700 hours, but with an allowance for no more than 2 functions per week after 1700 hours for which the following restrictions apply: Sunday to Thursday functions to finish no later than 1030 hours (including dispersal of customers), and Friday and Saturday functions to finish no later than 2400 hours (including dispersal of customers).

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

3. For events which are not covered under the Premises Licence number SDDC/002710, a noise limiting device, set to the same limits as agreed under the Premises Licence, shall be used to control all sources of amplified music within the marquee.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

4. All planting, seeding or turfing comprised in the approved details of landscaping, as set out on drawing ref: C1028/1 approved under planning permission 9/2010/0464, shall be carried out in the first planting and seeding seasons following the grant of this permission; and any trees or plants which within a period of five years from the completion of planting, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area, noting that the landscaping scheme has not yet been carried out.

## **Informatives:**

The applicant or any subsequent owner of the site should ensure that reasonable endeavours are made to ensure that the vegetation on the highway verge at the access to the application site from Findern Lane is maintained such that maximum achievable visibility is maintained at all times in the interests of highway safety.

The applicant's attention is drawn to the fact that landscaping works as required under 9/2010/0464 has not been carried out. Attention should be given to the requirements of condition 4 above.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, use of conditions, and promptly 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.

25/03/2014

**Item**            **1.5**

**Reg. No.**       **9/2014/0014/FH**

**APPLICANT:**  
**MR LOUIS ROWLAND**  
**60 FALCON WAY**  
**WOODVILLE**  
**SWADLINCOTE**  
**DE11 7QT**

**AGENT:**  
**MR LOUIS ROWLAND**  
**60 FALCON WAY**  
**WOODVILLE**  
**SWADLINCOTE**  
**DE11 7QT**

**Proposal:**       **THE RELOCATION OF BOUNDARY FENCE TO EDGE**  
                  **OF PAVEMENT AT 60 FALCON WAY WOODVILLE**  
                  **SWADLINCOTE**

**Ward:**           **WOODVILLE**

**Valid Date:**    **08/01/2014**

**Reason for committee determination**

This householder application appears at the request of Councillor Taylor as he considers that unusual site circumstances in this case should be considered by the Committee.

**Site Description**

The application property is located within a quiet, residential housing estate providing no through route to traffic. It is detached, but is within close proximity to two neighbouring properties, also detached. Due to the property being on a bend, its rear garden extends around the side elevation to the South, and fronts the principle elevation facing the highway. At present there stands a tall boundary wall, set back from the pavement with shrubbery directly in front of it.

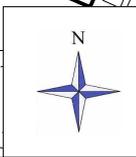
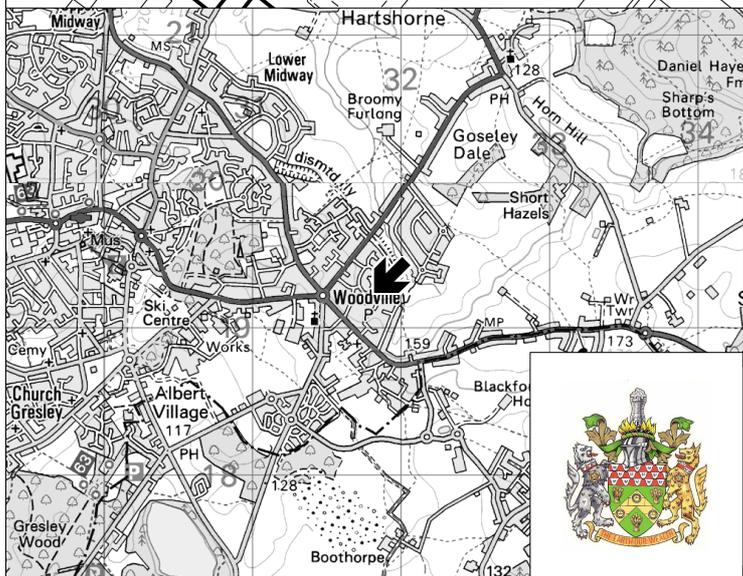
**Proposal**

Works are to remove the existing boundary wall and replace it with a fence, comprising of gravel boards of 300mm and 1.5m heavy duty tantalised and treated feather edge panels. The fence is to be brought forward to the edge of the pavement to utilise the maximum amount of space within the property's ownership.

**Applicants' supporting information**

No supporting information has been attached.

**Planning History**



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**South Derbyshire District Council. LA 100019461. 2014**

No relevant planning history.

### **Responses to Consultations**

Woodville Parish Council has considered this application and has no objection.

The County Highway Authority states that the fence may originally have been set back to allow visibility around the bend; however, since Falcon Way was built, visibility sightlines have been reduced and the required visibility can now be achieved within the existing footway and verge, therefore it has no highway objections to the granting of planning consent.

### **Responses to Publicity**

Councillor Stephen Taylor has written to state that he has concerns regarding the impact on highway safety should this scheme be approved. Visibility is significantly impaired as a result at a location that has a highway junction opposite. It is also on a bend and visibility for both vehicles and pedestrians are impaired as a result. He also has significant concern regarding the impact on the visual amenity of the area. This location is a sweeping bend with no other high fencing protruding out into the property frontages and as such the proposal would detract significantly from the original design intent of the estate and approval would fundamentally change that principle. He believes that, although possibly not a planning consideration, property deeds identify a restriction on fencing of a nature proposed by this application.

### **Development Plan Policies**

Advice from the Better Design for South Derbyshire.

### **National Guidance**

NPPF paragraphs 14,17 and 56.

### **Planning Considerations**

The main issues central to the determination of this application are the impact of visual amenity of the area and highway safety implications.

### **Planning Assessment**

The minimal nature of the proposal is not considered to create a detrimental impact upon the amenity of the local area. Falcon Road forms a part of a quiet housing estate, whereby there is no through road. No objections have been received from any neighbouring properties or the Parish Council.

It has been noted that some 12 properties away from 60 Falcon Road there is a similar scheme in place whereby tall fencing is directly adjacent to the pavement fronting the roadside on a bend of similar size as this application. This existing development is not considered to detract from the design of the housing estate.

A site visit to the property has established that there would be no highway visibility implications, as confirmed by the County Highway Authority, which has raised no objection.

For the reasons set out above, the proposal is not considered to be detrimental to the visual amenity of the property or the wider area, or inhibits the visibility of the adjacent pavement or highway. The proposal therefore complies with the provisions of the NPPF.

### **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. This permission shall relate to the drawings: Proposed New Fence, dated April 00; and Site Location Plan, both received 8 Jan 2014.

Reason: For the avoidance of doubt.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve issues. 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.

25/03/2014

**Item**            **1.6**

**Reg. No.**        **9/2014/0090/FX**

**APPLICANT:**  
**PINEHOUSE LTD.**  
**SCHOOL LANE**  
**NORMANTON LE HEATH**  
**LEICESTER**  
**LE67 2TU**

**AGENT:**  
**MR DAVID GRANGER**  
**DAVID GRANGER DESIGN LTD**  
**THE OLD DAIRY MILL STREET**  
**PACKINGTON**  
**ASHBY DE LA ZOUCH**  
**LE65 1WN**

**Proposal:**        **THE ERECTION OF 4 NO. TWO STOREY DWELLINGS**  
**AND 2 NO. SINGLE STOREY DWELLINGS ON LAND TO**  
**THE REAR OF OVERSEAL MANOR STABLES HALL**  
**CROFT AVENUE OVERSEAL SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**     **05/02/2014**

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

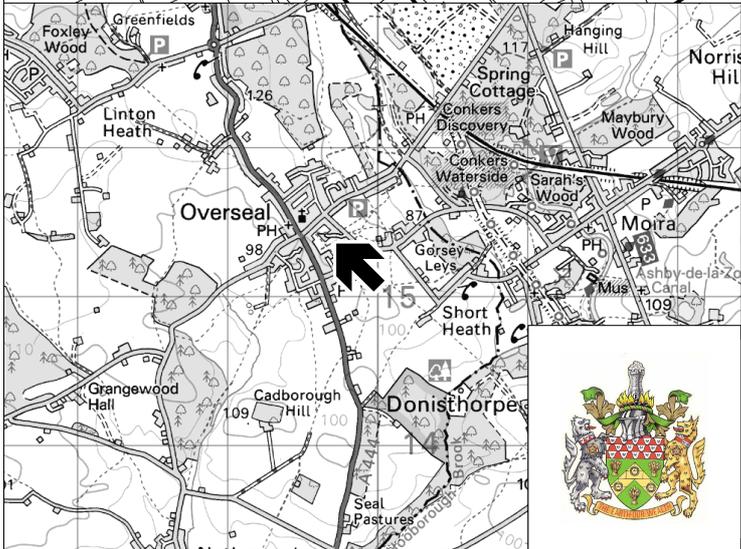
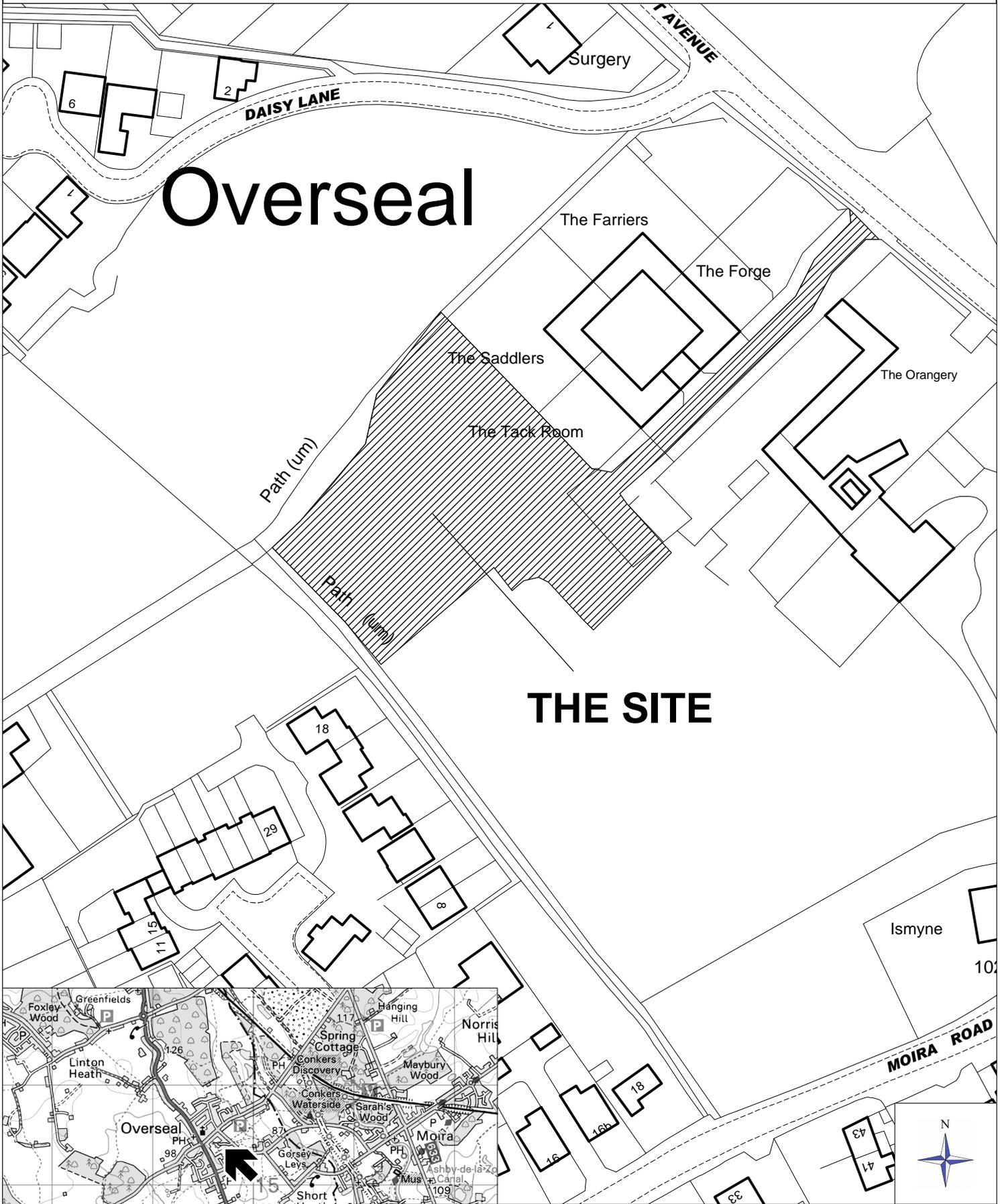
The application is brought to Committee at the request of Councillor Frost as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Members.

#### **Site Description**

The application site comprises some 0.29ha of land to the rear of Overseal Manor Stables, which is a relatively recently constructed building in a traditional courtyard form comprising four dwellings: The Saddlers, The Farriers, The Tack Room and The Forge. Overseal Manor, a Grade II Listed Building, was converted to form four dwellings at a later date. The site itself comprises a small paddock which is currently grassed and which slopes upward in the westerly direction towards the rear of the site.

The western and northern boundaries are formed by two mature hedgerows of approximately two to four metres in height. The remainder of the land to the southeast of the site is open grassland which is separated from the converted Manor by various boundary enclosures.

The site is within the Overseal confine boundary, as denoted on Inset 22 of the Proposals Map for the Adopted Local Plan. It is also within the catchment area for the River Mease Special Area of Conservation (SAC).



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**South Derbyshire District Council. LA 100019461. 2014**

The routes of Public Footpath Nos. 18 and 19 border the site on the northwest and southwest facing boundaries but lie outside the site itself and therefore would remain unaffected by the proposals.

## **Proposal**

The application proposes the erection of a terrace of four, two-storey dwellings, the frontages of which would face into the site and two demi-detached, single storey dwellings positioned at right angles to the two-storey dwellings, again facing into the site. The proposal would provide a mix of two and three-bedroom properties. The frontages of all properties would be provided with landscaped pathways leading from the car parking court, which would be located at the south eastern end of the site. The vehicular access would lead off the existing private driveway and extend into the site, terminating in a turning head to provide a turning area for service vehicles. An area to the southwest of the development would be landscaped, the details of which are proposed for future agreement. Each property would have its own rear garden area, ranging from 172 m<sup>2</sup> to 441 m<sup>2</sup>. Each dwelling would be provided with two car parking spaces in the parking court.

## **Applicants' supporting information**

The application is supported by the following documents, which are available of the Council's website:

- Heritage Statement, together with the Listing Text for Overseal Manor
- Planning Statement
- Design and Access Statement

These are summarised as follows:

### Heritage Statement

The proposed dwellings would be some distance from the principal listed building and largely screened from its view by intervening features, including boundary walls, hedges etc. The application site makes neither a positive nor a negative contribution to the significance of Overseal Manor or its ability to experience its significance as a heritage asset. Any direct or indirect impact that the proposals would have on the setting of Overseal Manor would, at worst, be neutral and would not affect the appreciation of its special architectural and historical character.

### Planning Statement

Overseal has been identified by the Council as a sustainable settlement and, as such, the principle of a degree of new housing is accepted as being likely to take place. The site lies within the settlement boundary in the current Local Plan and it can be argued that, in light of housing requirements and the need for a 5 year supply of deliverable housing, there are no reasons why, in principle, permission should not be granted.

The development of the site in the manner proposed will have no adverse impact upon the character and appearance of the area, the setting of Overseal Manor or upon the amenities of nearby residents. The proposal complies with the relevant policies in the

adopted Local Plan and accords with the general thrust of the NPPF to encourage sustainable development. There are no impediments to the delivery of the site and if permitted will result in the provision of six additional dwellings in the village.

### Design and Access Statement

This covers the physical, social and economic contexts of the development, as well as policy considerations and a site evaluation. In terms of scale, appearance and design, the proposal is for six dwellings which would constitute an appropriate level of development for an edge of settlement location (21 dwellings per ha.). Discussions with the Council's Conservation and Heritage Officer indicated at an early stage that a replication of The Stables development would not be an appropriate form of development and suggested a smaller scale cottage-style development as being more in keeping. The inclusion of two single storey dwellings would assist in keeping the height of the low as the land rises and shows a continuation of the 'stepping down' of the built form from The Stables development, through the two storey dwellings and ending with the single storey dwellings, i.e. diminishing in size and scale from the more 'grand' Stables complex.

Whilst Overseal boasts a variety of construction materials throughout the village it is proposed to use red brick throughout the development with clay tiles and timber windows; precise colours and types to be submitted to the Council for approval.

### **Planning History**

9/1999/0591 – Outline for the erection of four dwellings – approved October/November 1999

9/2003/0243 – Erection of four dwellings (reserved matters for landscaping only) approved 23/04/2003

9/2003/0604 & 0605 – Revisions to previous permissions, including an amended layout, fenestration and garaging for units 1 and 2, formation of unit 3 in Overseal Manor, together with garage and courtyard for unit 4 and rendering of Overseal Manor – approved 03/10/2003

9/2005/0951& 0952 – Conversion and extension to form dwelling, Unit 2 Overseal Manor – approved 12/12/2005

Various other applications for works to protected trees (TPO210).

### **Responses to Consultations**

The Environmental Protection Officer (contaminated land) has no comment.

Severn Trent Water has no objection subject to a condition in respect of drainage.

The County Highway Authority was originally concerned about the ability for refuse and other service vehicles to enter and leave the site in a forward gear without causing damage to areas intended for landscaping and possibly to residents' or visitors' cars parked along the driveway. Amended plans to satisfy these concerns have been received which illustrate that a service vehicle can enter, turn and leave the site in a

forward gear and on this basis and subject to conditions there are no objections to the proposal from the highway safety point of view.

The County Archaeologist considers there is some potential for medieval or post-medieval archaeology to survive within the application site and therefore there is a requirement to establish the significance of any heritage assets within the site. He recommends that the proportionate approach would be to require a geophysical survey of the 0.3ha proposal area to be submitted as part of the application. This has been undertaken and forwarded to the County Archaeologist who considers that there is potential for some remains to be present and recommends a condition in respect of a written scheme of investigation.

Natural England has no objections to proposal in respect of the River Mease SAC and the SSSI subject to conditions in respect of the additional foul water and the direction of surface water.

Derbyshire County Council (education) seeks a S106 contribution towards secondary education of £17,176.

The Peak and Northern Footpaths Society has no objections provided that the full widths of the two public footpaths remain unobstructed at all times during and following construction of the development.

Derbyshire County Council (Public Rights of Way) has no objection to the proposal as the scheme does not appear to affect the routes. However, it should be noted that:

- The routes must remain open, unobstructed and on their legal alignments at all times;
- There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area;
- Consideration should be given to members of the public using the routes at all times;
- A temporary closure of the routes may be granted to facilitate public safety subject to certain conditions;
- The width of the right of way should not be encroached upon by any structures.

### **Responses to Publicity**

Overseal Parish Council strongly objects to the proposal on the following grounds:

- The proposal is not in keeping with this part of the village, being next to a grade II listed building and a development of four high quality dwellings. The design is detrimental to the appearance of the area and no notice has been taken of the Council's Design Code in relation to appearance of the buildings. A total of 12 windows would face the existing Stables development to the detriment of privacy.
- Inability to access the proposed dwellings by refuse vehicles would result in 22 refuse bins being assembled on the verge at Hallcroft Avenue, which would restrict visibility for vehicles emerging from the site at a point where visibility is often restricted by vehicles associated with the doctor's surgery.
- Increased traffic using and parking along the private drive would be unsatisfactory. No garage provision or visitor parking provision has been made.

- A survey undertaken in 2008 concluded there was a need for no more than 12 affordable dwellings in the village. The District Council is about to construct 12 Council houses in Lullington Road therefore this need is catered for. Consequently, the proposed dwellings are not required.
- No environmental or ecological studies have been carried out even though it is known that there used to be Great Crested Newts in the pond within the Manor grounds. No maintenance arrangements have been provided for the remaining paddock area.
- If approved, the development could create a precedent for more intensive development within the remaining grounds of the Manor to the detriment of the area and vehicular safety within Hallcroft Avenue.
- The character of Overseal is changing from a primarily local settlement to a commuter village.

The Chair of Governors for Overseal Primary School has written clarifying the needs of the School. He writes that the School is currently housed within an old building that is rapidly become full to capacity. As of February 2014 the School has 203 pupils on roll with a maximum capacity of 206, which is expected to be reached in September 2014. Further development within the village will only bring additional families and increased strain on an already struggling school. Without Central Government or private developer funds to improve the facilities at the school resources will become increasingly stretched. The current situation as it stands is:

- Infants currently housed in a second hand portacabin originally donated by the Coal Board, which is in poor condition.
- No space or resources to cater for KS1 classes above legal limit. Placing children in a classroom which is undersized, with inadequate toilet and cloakroom facilities for extra children would result in considerable impact on the school.
- Inadequate assembly hall – lunch currently is in two sittings with children also eating in classrooms. It is not possible to accommodate all children in one sitting in the timescales available.
- The school office is a shared staff room which seats half the teaching staff at any one time. The head teacher's office is a converted cupboard. There is no storage space.
- The fire certificate just about covers the whole school assemblies with numbers at its current level.

Further development within the village and the school's catchment that aims to attract families needs to be considered carefully. The school is stretched to breaking point and without further investment continual development only increases this demand. For this reason the Governing Body has to strongly object to any proposed residential development within the village.

Overseal Footpath Group has no objections in principle but points out that the pipe wall, a heritage feature that lies to the north of the development should remain unchanged and the responsibility for cutting the hedgerow to the north and west of the site to ensure rights of way are kept clear if side growth and overgrowth should be made clear.

Eight letters/emails of objection from neighbouring residents have been received, which make the following points:

- a. The advice of the Conservation Officer has been ignored as the proposed terrace of housing would be at the same height as The Stables development.
- b. Overlooking and overshadowing of existing properties and possible loss of outlook resulting in adverse effect on residents' wellbeing and quality of life.
- c. Layout should be re-considered with single storey units next to the Stables development with the two-storey properties beyond.
- d. Safety of children playing on the private drive
- e. Low cost family homes have already been provided for elsewhere within the village therefore targets have been reached.
- f. Village school is at capacity.
- g. Provision of services and failure to consider impact
- h. Unrealistic parking layout and lack of turning space will encourage parking on Hallcroft Avenue, which has restricted visibility. The current situation already affects the grass verges, turning them to mud.
- i. An alternative access off Daisy Lane should be considered.
- j. Proposed development not in harmony with surrounding buildings
- k. Purchased property based on the high standards of the development which have been overridden in this instance with values and principles now being irrelevant
- l. Inconceivable that planning permission should be granted
- m. Complete disregard to neighbours in the pre-application process
- n. Led to believe the paddock would remain undeveloped. It is an intrinsic part of the Overseal Manor quadrangle.
- o. Green space within the village should remain so.
- p. No ecological assessment has been carried out.
- q. 'Cottage-style' design is disputed.
- r. Twelve windows overlooking existing rear gardens.
- s. Disruption and disturbance from additional traffic using the private drive.
- t. Extension of mains services into the site would be contested legally.
- u. No permission would be given for a Council refuse vehicle to access the site via the private drive and compensation would be claimed if any damage was caused to parked cars by that vehicle.
- v. No visitor parking provision.
- w. Negative impact on the exclusive curtilage of Overseal Manor and surrounding properties and negative impact on property values.
- x. Missed opportunity to achieve a more sympathetic design and relation to existing dwellings.
- y. Overseal deserves the same attention to detail as other villages in the area seem to get.
- z. Parked cars would hinder/obstruct access for emergency services

### **Development Plan Policies**

The relevant policies are:

Adopted Local Plan:  
 Saved Housing Policies H5, 11  
 Saved Environment Policies Env8, 10, 13, 14  
 Saved Transport Policy T6

Housing Design and Layout SPG

Emerging Local Plan:  
Policy H1 Settlement Hierarchy

## **National Guidance**

The National Planning Policy Framework (NPPF), paragraphs 7, 14, 49, 50, 56, 57, 61, 65, 66, 109, 118, 119, 128, 129, 131, 132, 186, 187, 203, 204

NPPG

## **Planning Considerations**

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

- The principle of the development
- Conservation and heritage issues
- Neighbours' amenities
- Design
- Highway safety
- River Mease SAC/SSSI
- Section 106 including education
- Miscellaneous issues

## **Planning Assessment**

### Principle of Development

Overseal Manor (formally a school) is a Grade II Listed Building which was converted to residential use around 2005 or shortly thereafter. Planning permission for the erection of four further dwellings to the northwest of Overseal Manor was approved and the development subsequently constructed, also in 2005. This took the form of a courtyard development, square on plan, designed to appear as a converted stable block. The application site is to the southwest of the courtyard development and currently forms an open paddock bordered by timber fencing, hedgerows and brick walls. The site, including Overseal Manor and the Stables development, is wholly within the confine boundary of Overseal.

Adopted Local Plan Saved Housing Policy 5 supports new housing development in villages provided that they can be accommodated within the village confines.

Similarly, the NPPF supports new residential development stating in paragraph 49 that *'Housing applications should be considered in the context of the presumption in favour of sustainable development'*.

Overseal is a village that provides a range of services, such as public transport, a convenience store, primary school, various shops, takeaways, at least one public house, a church etc., and is classed as a Key Service Village in Policy H1 of the Emerging Local Plan. The site is therefore considered to be sustainable and suitable for residential development of a scale appropriate to its surroundings and character. It is considered, therefore, that the principle of residential development is acceptable.

### Conservation and heritage issues

The application site is in a sensitive location that was, and remains, part of the parkland associated with Overseal Manor, and has, in the past, been acknowledged as an important space in Overseal. Saved Local Plan Environment Policy 8 makes it clear that *'Open spaces, gaps and landscape features which make a valuable contribution to the character or the environmental quality of individual villages and settlements will be safeguarded from development'*.

That said, from a conservation and heritage point of view the prime consideration is the effect of development on the setting of the Grade II listed building. Initial pre-application discussions envisaged a development that extended further to the southeast, which was not encouraged as it would impinge on the setting of the Manor. The setting of the Manor appears to be less open than it formerly was and intervisibility between the application site and the listed building is limited by planting and the presence of an earth bank. Nevertheless, the open grassland to the southwest of the listed building is still important to the historic setting of the house, and the current application represents the extent of development which was felt to be acceptable without undue harm to that setting. The site is screened from Hallcroft Avenue by the Stables development which makes a fitting companion to the listed building, when viewed from the road. The development of the site in the manner proposed would retain the open aspect of the site when viewed along the existing access road from Hallcroft Avenue, thereby complying with Environment Policy 8.

However, despite limited visibility from the principal building and public road, it is still important that the houses are designed and detailed to a high standard to reflect the sensitive setting. Although the siting is quite discreet the houses would still form part of the experience of visiting the site in general and would integrate with the existing development. For that reason, it is considered that conditions relating to the constructional detail would be relevant.

Other than the proposed southeastern boundary treatment, on the advice of the Conservation and Heritage Officer, it is considered that the proposed scheme would not have a detrimental impact on the setting of Overseal Manor and therefore is acceptable in conservation and heritage terms.

### The amenities of neighbouring residents

Of the four residential units within the Stables development, The Saddlers and The Tack Room are the two that are most likely to be affected by the proposal. Both properties are two-storeys in height and have habitable room windows facing the rear of the proposed two-storey terraced dwellings. The rear gardens of The Saddlers and The Tack Room are 13m deep from the rear elevation to the 1.8m high brick boundary wall. The rear gardens of the proposed terraced dwellings would be a minimum of 9m deep from the rear elevation to the end of the garden, with a 1m wide rear walkway linking the rear gardens to the proposed parking court. This gives a total of a minimum distance of 23m between habitable room windows, which is 2m more than any of the minimum distances specified in the Council's SPG. The proposal, therefore, is not considered to be detrimental to the amenities of the neighbouring residents by way of overlooking or loss of privacy as it exceeds the adopted minimum distance standards. For similar reasons it is also considered that there would be no loss of natural light or sunlight to the neighbouring dwellings.

The main impact for the residents of The Saddlers and The Tack Room would be their loss of an open view. However, there is nothing within the planning legislation that allows applications to be refused on grounds of loss of view.

It is considered therefore that the proposal would not adversely impact on the amenities of the neighbouring residents and is therefore in accordance with Local Plan Saved Housing Policy 11 and the advice in the Housing Design and Layout SPG.

### Design

The Council's Conservation and Heritage Officer has been closely involved in the proposed scheme, which has resulted in a development that would be sympathetic to the parkland setting, the adjacent residential properties and the Grade II Overseal Manor. The terrace of four cottages has a low eaves height and simple elevations with either brick window and door arches or stone heads. There is a difference in land levels in the southeast/northwest direction which has resulted in a design that indicates a difference of finished floor levels, and consequently roof heights, of approximately 0.9m, with Plot 1 being set at 11.000m and Plot 4 at 11.9m. This not only creates interest but is better suited to the site itself.

The pair of single storey dwellings proposed to the southwest of the terraced dwellings would, again, be of simple design, each with a front entrance canopy, low eaves and chimneys and in line with the advice of the Conservation and Heritage Officer. It is understood that there is a District-wide need for single storey dwellings and this development will go some way to address this need.

In terms of policy therefore, it is considered that the design of the proposed dwelling is in accordance with both the advice in Local Plan Saved Housing Policy 11 and the design objectives of the NPPF, particularly paragraph 65 which states that: *'Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits)'*. It has already been established that the setting of the designated asset, i.e. Overseal Manor, would not adversely affected by the proposal.

### Highway Safety

Following concerns raised by the County Highway Authority with regard to refuse vehicles, amended plans have been submitted to show how a refuse vehicle could enter the site, via the private drive, and turn/manoeuvre in order to leave the site in a forward gear. The Highway Authority is now satisfied with the proposal and has no further objections, subject to conditions. The proposal is therefore in accordance with Local Plan Saved Transport Policy 6.

### River Mease SAC/SSSI

An assessment was undertaken under Regulation 61 of the Conservation of Habitats and Species Regulations 2010, in order to establish whether the development would be

likely to have a significant effect on the River Mease SAC. The assessment identifies the conservation interest features and objectives of the SAC and describes the development proposed. The applicant has provided such information as the authority may reasonably require to enable it to determine whether an appropriate assessment is required. This has allowed the potential impact of the development to be considered in detail sufficient to enable the Authority to satisfy itself that no significant effects either alone or in combination will arise as a result of the development proposed. In reaching this view, there is no need for the Authority to proceed to undertake a full appropriate assessment.

Natural England has not raised objections to the proposal with regard to the River Mease SAC issues or SSSI issues, subject to conditions. The main concerns relate to whether Severn Trent Water Sewage Treatment Plant has capacity for the additional foul water and that the surface water generated from the development is not directed towards the mains sewer. With regard to the first concern, Severn Trent Water has indicated that there are no objections in principle subject to drainage details being submitted, which is standard for this type of development. Secondly the application forms state that surface water would go to a soakaway and it is not unreasonable to request details of this via condition so that Natural England can be satisfied that there will be no adverse impact on the integrity of the SAC or SSSI.

It is considered therefore that this matter can be dealt with satisfactorily by conditions and through the approved developer contributions scheme to improve water quality management.

#### Section 106 matters

The application is a proposal for a residential development in excess of four dwellings. As such there is a requirement for developer contributions towards recreation, health and education as well as the River Mease Developer Contribution Scheme towards water quality management.

The breakdown of contributions required for this proposal is as follows:

River Mease contributions	£ 1,386.00
Recreation (open space, outdoor & built facs.)	£11,424.00
Healthcare	£ 3,306.00
Education	£17,176.00
Total	£33,292.00

#### Miscellaneous Issues

With regard to the issues raised by the Chair of Governors of Overseal Primary School, the County Education Officer has confirmed that the school has a net capacity of 206 children and a current number on roll of 204, with falling rolls predicted over the next five years. Four, two-storey dwellings would yield one primary school pupil and one secondary school pupil and therefore there is no requirement for a contribution towards primary school education. With regard to the current situation within the school itself and its limited resources, this is a matter for the County Council as part of its financial obligations and upgrade procedure as and when financial resources allow. The

requirement for an increased contribution towards the upgrade of the school would be unreasonable and therefore not in accordance with the NPPF.

With regard to the pre-application discussions that have been had in relation to the proposal, it is not normal practice to involve neighbours in such discussions of this nature, as there is often an issue of confidentiality to consider and neighbouring residents have no automatic right to be consulted prior to the planning application process. In some instances applicants may approach the neighbours prior to the submission of an application but this is by personal choice and is not a requirement.

The Parish Council's argument regarding precedence is not a reason for refusal, as each application is assessed on its own merits. Furthermore, any development within the curtilage/setting of a Listed Building would require planning permission and the merits of such a proposal would be up for separate and individual discussion at that time.

Natural England has not requested an ecological assessment and is satisfied that the proposal is acceptable based on the information already provided.

With reference to affordable housing, there is no evidence within the submitted documents to demonstrate that the development is intended to be for social housing and therefore the points made regarding the recent decision to approve the Council's application for twelve affordable dwellings in Lullington Road is not relevant.

Possible negative impact on property values is not a material planning consideration.

With regard to comments about parking, the scheme shows full provision of off-street parking on the site (i.e. two spaces per dwelling).

In conclusion, it is considered that the proposed scheme is in accordance with local and national planning policies and, subject to the applicant's entering into a legal agreement under Section 106 of the Planning Act and the imposition of appropriate conditions, planning permission should be granted.

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

### **Recommendation**

Subject to the applicant entering into a legal agreement under Section 106 of the Town and Country Planning Act 1990, as amended, **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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 13.2908 (Location Plan) and 13.2908.11B received on

13th March 2014 and showing the outline of the site enlarged and the provision of a turning circle/swept path for use by refuse and emergency vehicles.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have 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 setting of the existing Grade II Listed Building, neighbouring properties and the locality generally.

4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

6. With regard to Condition 5 above, particular attention should be given to the boundary treatment on the southeastern boundary of the site, which should be delineated by lightweight, black steel, 'parkland' fencing of horizontal rails without a hedge or other planting.

Reason: In order to maintain the open parkland character of the site and wider area.

7. All boundary walls shall have a traditional style of shaped clay or stone coping the details of which, including a sample, shall have been previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the surrounding area.

8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority and shall not be replaced with joinery of any other type unless previously agreed in writing by the Local Planning Authority.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

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

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and character of the area.

11. Pointing of the proposed dwellings shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joints shall be slightly recessed with a brushed finish.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the area.

12. A sample panel of pointed brickwork 1 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the completed development, the setting of the Grade II Listed Building and the character of the surrounding area.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting of the Grade II Listed Building, size of the development, the site area and effect upon neighbouring properties.

14. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

15. 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.

16. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording.
  2. The programme for post investigation assessment.
  3. Provision to be made for analysis of the site investigation and recording.
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
  5. Provision to be made for archive deposition of the analysis and records of the site investigation.
  6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

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

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

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

Reason: In the interests of flood protection and pollution control.

18. With reference to Condition 17 above, the applicant shall confirm (a) that the local sewage treatment works can handle the added foul water; and (b) that surface water is not to be directed to the mains sewer and the detailed drawings of any proposed soakaway shall be submitted before commencement of works. The works shall be carried out in accordance with the approved details.

Reason: In order to achieve the River Mease water quality conservation targets (SAC), as required by Natural England.

19. Prior to any other operations commencing, space shall be provided within the site curtilage for the storage of materials, site accommodation, loading and unloading of materials, parking and manoeuvring of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

20. Prior to the first occupation of any of the dwellings hereby approved the car parking and manoeuvring space, including the service vehicle turning head, shall be provided, laid out and constructed in accordance with the application drawing (13.908.11B) and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

Informatives:

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 0845 762 6848.

Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

The routes of Public Footpaths 18 and 19 adjacent to the site must remain open, unobstructed and on their legal alignment at all times. There should be no disturbance to the surface of the routes without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

An assessment was undertaken under Regulation 61 of the Conservation of Habitats and Species Regulations 2010, in order to establish whether the development would be likely to have a significant effect on the River Mease SAC. The assessment identifies the conservation interest features and objectives of the SAC and describes the development proposed. The applicant has provided such information as the authority may reasonably require to enable it to determine whether an appropriate assessment is required. This has allowed the potential impact of the development to be considered in detail sufficient to enable the Authority to satisfy itself that no significant effects either alone or in combination will arise as a result of the development proposed. In reaching this view, there is no need for the Authority to proceed to undertake a full appropriate assessment.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, by seeking to resolve planning objections and issues and suggesting amendments to

improve the quality of the proposal, and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

25/03/2014

**Item**            **1.7**

**Reg. No.**        **9/2014/0128/TP**

**Applicant:**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**  
**DE11 0AH**

**Agent:**  
**MR MARTIN BUCKLEY**  
**SOUTH DERBYSHIRE**  
**DISTRICT COUNCIL**  
**CIVIC OFFICES**  
**CIVIC WAY**  
**SWADLINCOTE**  
**DE11 0AH**

**Proposal:**       **THE POLLARDING OF AN ASH TREE COVERED BY**  
**SOUTH DERBYSHIRE DISTRICT COUNCIL TREE**  
**PRESERVATION ORDER NO. 132 AT WILSON CLOSE**  
**MICKLEOVER DERBY**

**Ward:**            **ETWALL**

**Valid Date:**     **10/02/2014**

**Reason for committee determination**

The Council is the applicant; the tree is protected by a tree preservation order, on Council owned land, maintained as public open space.

**Site Description**

This ash tree sits on a small area of informal open space/estate landscaping and near to a well-used footpath. The site is generally flat and there are other trees as well as housing in the immediate.

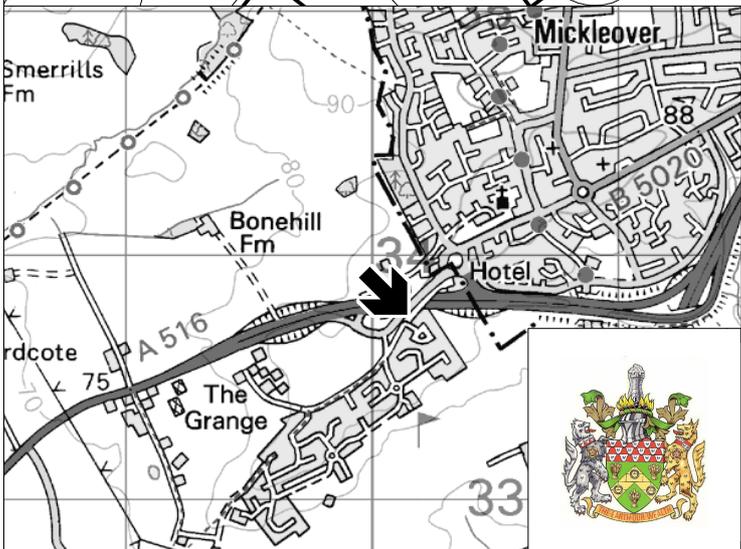
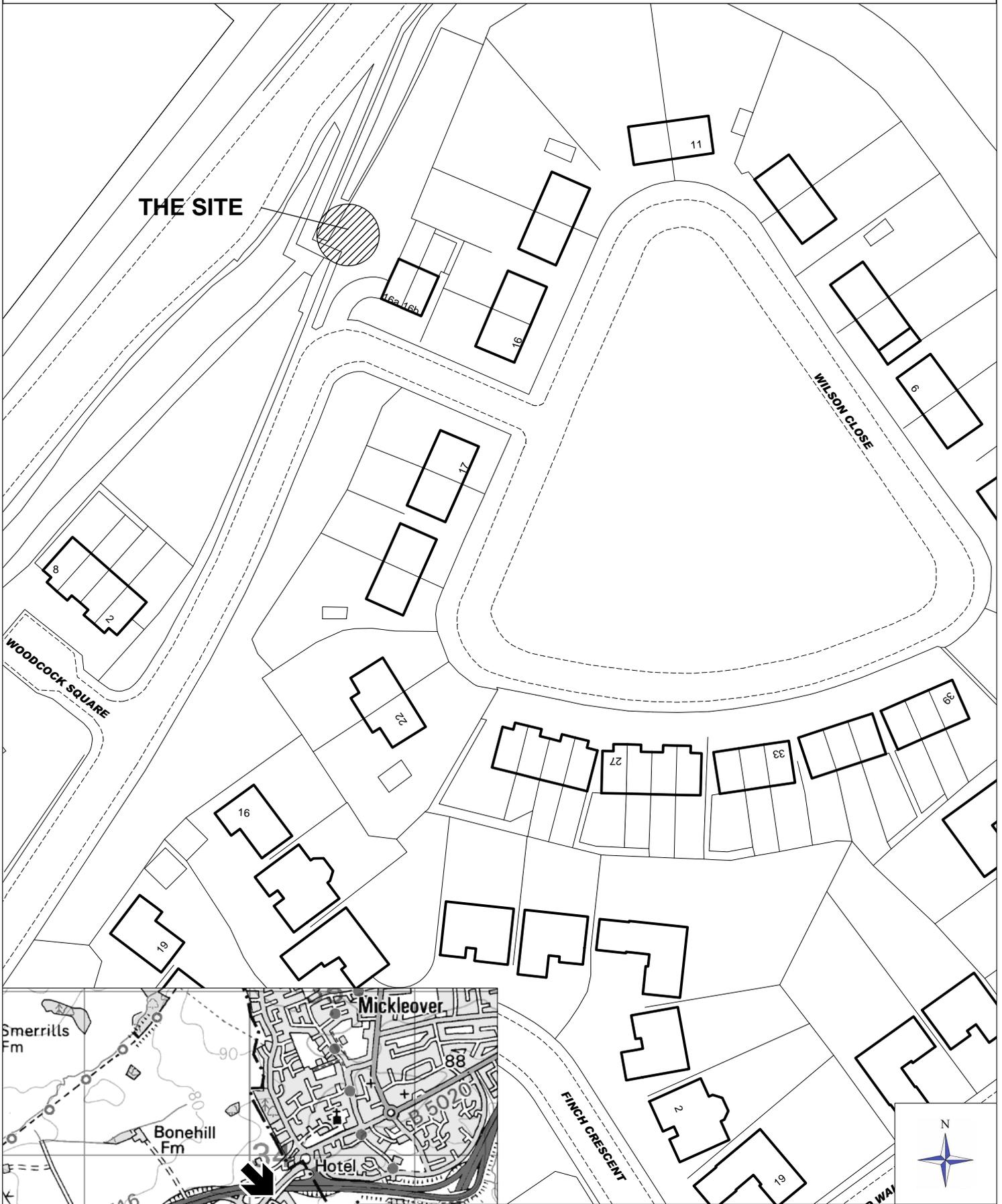
**Proposal**

The proposal is to pollard the tree, reducing its overall height to 6 metres.

**Applicants' supporting information**

The tree has recently lost a large scaffold limb recently and there is evidence of a pathogenic fungal infection growing near its base. The tree officer has recommended pollarding as opposed to felling in an attempt to save the tree and reduce failure potential.

**Planning History**



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South Derbyshire District Council. LA 100019461. 2014

The TPO has been in force here since 1996.

### **Responses to Consultations**

None.

### **Responses to Publicity**

None.

### **Development Plan Policies**

The relevant policies are: Environmental Policy 9

### **National Guidance**

National Planning Policy Framework.

### **Planning Considerations**

The main issue central to the determination of this application is whether the work proposed is warranted given the protective designation.

### **Planning Assessment**

This fine looking tree is a part of an estate-wide Order (TPO132). The works are deemed necessary following recent failure of a large limb and evidence of a pathogenic fungus growing on /near to its rooting system. The works will affect the amenity here in the short term but it may well regenerate albeit in a smaller and safer form.

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 works hereby granted consent shall be carried out within two years from the date of this permission.  
Reason: To enable the Local Planning Authority to retain control over the works.
2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.  
Reason: To safeguard the health of the tree.

25/03/2014

**Item**            **2.1**

**Reg. No.**        **9/2013/0762/NO**

**APPLICANT:**  
**MR GRAHAM TUNSTALL**  
**15 SUTTON LANE**  
**HILTON**  
**DE65 5FB**

**AGENT:**  
**MR BRYAN BELL**  
**29 TOTTIES**  
**HOLMFIRTH**  
**WEST YORKSHIRE**  
**HD9 1UL**

**Proposal:**        **THE ERECTION OF TWO CALVING SHEDS, A  
STORAGE BARN AND TIMBER LODGE FOR USE AS  
FARMWORKER'S DWELLING PLUS ASSOCIATED  
ACCESS TRACKS AT BLACKBERRY FARM SUTTON  
ROAD CHURCH BROUGHTON DERBY**

**Ward:**            **HILTON**

**Valid Date:**     **20/09/2013**

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

The application is reported to Committee at the request of Councillor Bale because he considers there to be unusual site circumstances that should be considered by committee.

#### **Site Description**

The application site is an agricultural holding consisting of 4.3 hectares (10.5 acres) of land to the north of Sutton Road, accessed via a track from Sutton Road. The site is situated within the open countryside, beyond any settlement boundary. The site is in use for agricultural purposes and on site at present there is an existing caravan as well as two agricultural buildings.

#### **Proposal**

The application is in full and is to erect a timber "lodge" dwelling towards the eastern boundary of the site measuring approximately 18.5m x 6.8m with a height to the top of the ridged roof of approximately 3.5m (2.3m to eaves). The accommodation would provide a lounge, kitchen/dining room, utility room, three bedrooms (one with en-suite) as well as a bathroom. It is also proposed to erect a new storage barn measuring approximately 33.7m x 6.4m with a pitched roof to a maximum height of 7m to the top of the ridge (6m to eaves) as well as two calving sheds each measuring approximately 18.5m x 9.4m with a height to the top of the ridge of approximately 3.7m (2.2m to



eaves). Access tracks through the field, extended from the existing track would also be created to the farming buildings and proposed dwelling.

### **Applicants' supporting information**

The application is accompanied by a Design and Access Statement which states that:

"The application site is part of a total agricultural holding of approximately 101/2 acres. There are 2no. existing agricultural buildings on the site which at the moment house a stock of 65 sheep, 5 pigs, 17 piglets, 10 beef cattle and 5 goats plus animal feed and machinery. There is also a caravan which the applicant installed approximately 3 years ago and occupies for about 3 months of the year at farrowing and lambing times. At the same time as the caravan was installed the applicant put in an 8 person septic tank for foul sewage from the caravan. All of these features are shown on the site layout plan.

The applicant is committed to rearing and looking after the animals that he already has and to carrying out of essential maintenance works. This involves him visiting the site more than once every day, seven days per week, on a part time basis and, as mentioned above, he also has to be on hand during birthing several times a year. He currently lives with his parents approximately 10 minutes from the site, and his partner, who also helps him on the holding, lives approximately 25 minutes away so, obviously, both of them spend a lot of time and fuel travelling to and fro."

It goes on to state that:

*"Over the next few years the applicant aims to develop the holding to its full potential and plans to expand the business by rearing newly born calves to meadow quality. Initially this process will involve the through-put of 75 calves every 8 weeks using 2 sheds, each containing 16 rearing pens. The calves will be reared on milk in the first shed for 2 months then moved into the second shed for a further 2 months until they reach a weight of 125 kg. This is a labour intensive process which will create full time employment for the applicant's partner as well as continued part time involvement for himself.*

*Phase 2 of the expansion programme will see the number of calves increased from 75 to 150 and ultimately the expectation is to open a farm shop to supply their own product to the surrounding area. Ultimately the enterprise will provide full time employment for the applicant and his partner plus the possibility of some part time retail staff.*

*This is an important commitment which will retain the land in agricultural use and thereby help to preserve the environment and the appearance and openness of the Green Belt in accordance with SDLP Policy EV5 and the NPPF. It will also create employment thereby promoting the rural economy which SDLP Policy E4 recognises is one of the best ways of protecting and improving the countryside.*

*This planning application is for Phase I of the scheme and includes the installation of 4 new buildings: 2no. calf rearing sheds measuring 18.5m x 9.4m x approximately 4m high; a barn measuring 33.7m x 6.4m x approximately 7m high for the storage of animal feed, bedding and machinery; an essential farmworker's temporary dwelling measuring 18.5m x 6.8m x approximately 4m high to replace the existing caravan and capable of providing suitable housing for the applicant, his partner and their children.*

*The agricultural buildings are clearly essential for the proposed venture to function and it is also necessary on animal welfare and security grounds that the applicant and his family live on site. There are no existing buildings on the holding suitable for immediate habitation or conversion into a dwelling so it is proposed to install a temporary dwelling within the farm yard in the form of a transportable timber lodge.”*

The Design and Access Statement states that in the NPPF there is a presumption on favour of sustainable development and the proposal will lead to a stronger rural economy and support the employment of the applicant and his partner. It states that The NPPF and Policies H8, H12 and G3 of the SDLP deem that new dwellings in the countryside and in the Green Belt are considered to be appropriate development in very special circumstances. These special circumstances include agriculture workers dwellings provided that their potential harm is outweighed by other considerations. In this instance there is clearly a need and justification for the provision of a key workers dwelling at Blackberry Farm and, by virtue of the proposed design, the potential harm to the environment and the Green Belt has been minimised.

Additional information was requested from the applicant in respect of justification in terms of functional need, as the applicant spends time at the farm travelling to the site from where he lives in Hilton, separate from his partner and three young children who live in Derby, and the farming activities commence at 05:00am. And the very nature of rearing calves is very intensive. It states that the calves will be expanded up to 300 per year and that all animals will be kept indoors within the existing and new buildings with the land able to be used for making hay for use and sale. The applicant has supplied a letter from a vet which endorses the applicant's claim that for animal welfare and health it is essential for the applicant to live on site. The applicant has also supplied three years' worth of projected accounts relative to the business.

### **Planning History**

None relevant.

### **Responses to Consultations**

The County Highway Authority advises that the existing access to Sutton Lane is substandard in terms of visibility due to boundary hedges which do not appear to be under the control of the applicant. If the calving could take place at present then there would be no objection to the calving sheds and storage barn. However, if there is insufficient justification for the erection of an agricultural worker dwelling it recommends refusal as the proposal would result in an increase in the use of a substandard access, contrary to the best interests of highway safety.

The Environmental Health Officer (Pollution Control) has no comments to make.

The Council has instructed an Agricultural Consultant who has advised that the standard labour requirements for the current stocking do not justify a full time worker and will not provide a sustainable livelihood and therefore the current system does not justify a dwelling. He goes on to report that if the two further livestock buildings were erected to be used as a calf rearing unit with a capacity of up to 300 calves, this would change the dynamics of the business completely with a substantially higher labour requirement and potential profitability. Whilst the applicant has provided some basic calf rearing margin information, but while this looks simply at the calf rearing enterprise it

does not assess the overall viability of the business. In order to assess the need for a temporary dwelling he recommends that the Council requests a full business plan including fully costed budgets for three years, showing how the applicant can fund the business expansion, capital expenditure and working capital requirements. The capital costs of the two fully stocked calf sheds and the dwelling (which is generous at 4 bedrooms) would be substantial. This information is no more or less than was required under PPS 7 which provided the last available guidance on how to treat requests for temporary dwellings. In the absence of a detailed business plan he states that he is unable to support the application.

### **Responses to Publicity**

Church Broughton Parish Council objects on the grounds that the business case is not justified and there is not sufficient agricultural land to support a business of this size.

One letter of objection received which can be summarised by the following points:

- a) The size of the proposed accommodation seems disproportionate to the plot.
- b) If permitted could conditions be imposed to restrict the buildings so that poultry is not allowed.
- c) Traffic should be considered along Sutton Lane.

Two letters in support of the application have been received which can be summarised by the following points:

- a) As a direct neighbour full support of the application as the applicant has improved very poorly farmed land with good husbandry and welfare skills has laid hedges and kept weeds under control.
- b) The site needs a dwelling to ensure good animal welfare especially during calving, lambing and farrowing periods during the night.
- c) The business will benefit the local economy and environment.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 8 (H8), Transport Policy 6 (T6) and Environment Policy 14 (EV14).

Emerging Local Plan: Policy H1 (Settlement Hierarchy)

### **National Guidance**

NPPF paras. 17, 32, 55 and 64,  
NPPG.

### **Planning Considerations**

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

- Whether there is an essential need for an agricultural worker's dwelling,
- Impact of the proposal on highway safety, and

- Impact on the character and appearance of the countryside.

## **Planning Assessment**

### Essential need for an agricultural worker's dwelling

Notwithstanding the comments in the Design and Access Statement that accompanied the application, the site is not located within the designated Green Belt but is within the open countryside where new housing development is, nevertheless, strictly controlled. Policy H8 of the Saved Local Plan (i.e. Section A) states that outside settlements new housing development will be permitted provided that it is necessary to the operation of an established, viable, long term rural based activity; it can be demonstrated that a countryside location is necessary to the efficiency of the activity; the site is well related to existing farm buildings or other dwellings and the dwelling is commensurate with the functional requirement of the activity. The applicant was requested to supply supporting information including information regarding functional and financial tests to justify the new agricultural worker's dwelling. Information in this regard was supplied and these are elements that would have been required under Annex A of old Planning Policy Statement (PPS 7 Sustainable Development in Rural Areas), although the current National Planning Policy Framework (NPPF) supersedes PPS 7. It is, nevertheless, necessary for the proposed development to be considered in the light of the guidance, as specified in the NPPF i.e. "*Local planning authorities should avoid new isolated homes in the countryside, unless there are special circumstances such as: the essential need for a rural worker to live permanently at or near their place of work in the countryside,*" (paragraph 55). The pertinent words are 'essential need' and 'permanently'. Whilst the old functional and financial tests have now been replaced, under the NPPF the Council still needs to be wholly satisfied that there is a genuine essential need for a permanent dwelling on this particular site at this time.

The information submitted in support of the application has been assessed by an agricultural consultant engaged by the Council to critically evaluate the submission in relation to the above requirements and his advice is clear, concluding that the current farming enterprise does not justify a dwelling on site. As a consequence it is considered that the applicant has failed to demonstrate that there is an 'essential need' for a new dwelling at the site and the proposal is therefore contrary to the requirements of the NPPF and Housing Policy 8.

### Impact of the proposal on highway safety

The County Highway Authority has concerns in respect of any intensification of the use of the access as it is substandard in terms of visibility due to boundary hedges which do not appear to be under the control of the applicant. They raise no objection to the proposed agricultural buildings if they relate to an authorised use of the site. The use of the site for agricultural purposes is not in question therefore that element of the proposal is considered to be acceptable in highway safety terms. However, the County Highway Authority is concerned that the proposed dwelling would lead to additional comings and goings and if the dwelling is not justification it recommends refusal because the proposal would result in an increase in the use of a substandard access. As the need for the erection of an agricultural dwelling has not been established the proposal is considered to be detrimental to the best interests of highway safety.

### Other matters

With regards to other matters that have not been covered above the siting and design of the proposed agricultural buildings are considered to be appropriate to this site and location and whilst they are substantial they are appropriate to this farming enterprise. With regards to the size of the proposed accommodation, notwithstanding that the principle of a dwelling on site has not been established, if it had, the size of the accommodation and its siting these are considered appropriate, albeit that the accommodation is reasonably large.

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

### **Recommendation**

**REFUSE** permission for the following reasons:

1. Paragraph 55 of the National Planning Policy Framework (NPPF) states that Local Planning Authorities should avoid new isolated dwellings in the countryside unless there are special circumstances. To this extent village confines are defined in the Local Plan (within which Saved Housing Policy 5 generally favours new housing) retains consistency with the NPPF, because it was drawn having regard to the visual context of settlements within the District with the objective, inter alia of controlling the encroachment into the countryside, surrounding the villages, of environmentally undesirable development. The defined village confines are complemented by Saved Housing Policy 8 & Environment Policy 1 which set criteria to control development in the countryside, this being consistent with Paragraph 55 of the NPPF. The application site is located beyond any defined village confine and is also considered to be beyond any discernible settlement. On the basis of the information submitted there is no clear justification for an essential need for a permanent dwelling for an agricultural worker at the site, the proposal would result in the creation of a dwelling in the open countryside and no special circumstances exist to otherwise justify the new dwelling exist. As such the proposal is contrary to South Derbyshire Local Plan Saved Housing Policy 8 & Environment Policy 1, supported by Paragraphs 55 & 64 of the NPPF and its core planning principle in paragraph 17 to recognise the intrinsic character and beauty of the countryside.
2. The existing access to Sutton Road is considered to be substandard in terms of visibility and the introduction of a new dwelling on the site will lead to an increase in the use of that substandard access. South Derbyshire Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic whilst the National Planning Policy Framework at paragraph 32 which states, amongst other things, that safe and suitable access to the site is required and that development should only be prevented or refused on transport grounds where the impacts of development are severe. In the opinion of the Local Planning Authority the proposal would result in an increase in the use of an existing substandard access and the construction of an additional substandard access to a classified highway at a point where visibility is substandard to the detriment of highway safety, contrary to NPPF paragraph 32 and Local Plan Transport Policy 6.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. 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. PLANNING AND OTHER APPEALS

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2013/0038	Foston	Hilton	Dismissed	Committee
9/2013/0075 & E/2012/00260	Repton	Repton	Dismissed	Delegated

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# Appeal Decision

Site visit made on 27 January 2014

**by T Cannon BA DIP TP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 February 2014**

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**Appeal Ref: APP/F1040/A/13/2204406**

**Hatton Lodge, Uttoxeter Road, Foston, Derbyshire, DE65 5PX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Richard Hesse against the decision of South Derbyshire District Council.
  - The application Ref 9/2013/0038, dated 9 January 2013, was refused by notice dated 27 March 2013.
  - The development proposed is outline planning permission for two dwellings.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The application is in outline with all other matters reserved for future determination.

## Main Issue

3. The main issue in this case is the effect of the proposal on the character and appearance of the countryside, with particular regard to the aims of policies concerning the location and sustainability of new housing.

## Reasons

4. The appeal site is located at the end of a small ribbon of development off the A511 Uttoxeter Road, to the north-west of the village of Hatton. Hatton Lodge is a detached property set in a substantial plot. This includes an extensive side garden where the two new dwellings would be located, between the existing dwelling and the neighbouring property Birchlea. The appeal proposal would not therefore encroach into open countryside or extend the existing ribbon of development. An established hedgerow extends across the width of the site frontage. This softens the front of the plot as the ribbon of development opens out towards the open countryside.
5. Although the appeal proposal does not seek approval for access the Highway Authority require visibility splays measuring 2.4m x 150m in both directions for any new housing development on the site. This is clearly a material consideration in the determination of this case for two new dwellings. To achieve the necessary visibility splays the mature hedgerow positioned along the site frontage would need to be removed. This hedgerow is an important feature which softens the site frontage and its interface with the A511. Although it may be possible to plant a replacement hedge following the

- required visibility splays, this would be set back and at an angle to the road. Such works would introduce an unnatural feature, detrimental to the rural character of the area.
6. Consequently, the appeal development would necessitate the removal of a large section of hedgerow along the plot frontage and would harm the character and appearance of the countryside. It would therefore conflict with Environmental Policy 1 of the LP which seeks to protect the character of the countryside. This policy is broadly consistent with one of the Framework's objectives that planning should recognise the intrinsic character and beauty of the countryside.
  7. The South Derbyshire Local Plan (LP) was adopted in 1998. Although the policies relevant to this appeal were saved in 2007 it is not a 'new-style' post-2004 development plan document. Paragraph 215 of the National Planning Policy Framework (the Framework) applies to such old-style policies, and states that in such cases due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight which may be given).
  8. Paragraph 55 of the Framework says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Isolated homes should be avoided unless there are special circumstances (those cited are not relevant to the current case). Although Housing Policy 8 of the LP seeks to restrict new development in the countryside which, does not relate to an established rural based activity, it does not apply the presumption in favour of sustainable development at the heart of the Framework. Nor does Housing Policy 6 regarding limiting infilling in other rural settlements. As such, the LP policies referred to above are not entirely consistent with the Framework in this respect. This increases the weight I attach to the Framework in my assessment of this case.
  9. The appeal site is detached from the nearest settlement. There are no services in the immediate area. The nearest local facility is a petrol filling station approximately 0.5 miles to the east. In addition to petrol sales the premises sells a limited range of goods. There is also a restaurant and café situated immediately to the east of the filling station.
  10. To access a wider range of goods and services potential occupiers would have to travel to the village of Hatton, situated approximately 0.75 miles from the site. Hatton has several shops, a primary school, railway station and potential employment opportunities. Although many of these facilities are situated on the south side of the village they are still within a reasonable walking distance of the appeal site. Approximately 1 mile to the north-west is the Dove Valley Park industrial estate. This could potentially provide further employment opportunities for future occupiers.
  11. I note a well maintained footpath links the appeal site with both Hatton and Dove Valley Park. The footway is also lit by street lighting in both directions. Although the A511 is a busy road, the provision of an illuminated footway and the nature of the route, without any significant inclines would increase the potential for future occupiers accessing such facilities on foot. I also observed existing bus stops on either side of the carriageway within the ribbon of

- development. This indicates the appeal site is located on a bus route and would further weigh in favour of the sustainability credentials of the proposal.
12. Having regard to the above factors, I conclude that in the context of the Framework's policies the appeal development would not provide isolated homes in the countryside and could contribute to maintaining the vitality of rural communities. However, there are three dimensions to sustainable development: economic, social and environmental. These roles are mutually dependant and should be jointly sought to achieve sustainable development.
  13. I have found the appeal development would harm the character and appearance of the countryside and fail to fulfil the environmental role. I therefore find the appeal proposal, to be contrary to the guiding principle of the Framework, where housing proposals should be considered in the context of the presumption in favour of sustainable development.
  14. The appellant has made reference to an infill development in Derby Road, Hilton and other housing developments granted permission on both greenfield and brownfield sites in the District. However, I have not been provided with full details of the circumstances which led to these developments and so I cannot be sure that they directly parallel the appeal proposal. Nor have I been provided with details of any infill development which may have occurred on Uttoxeter Road in the past.
  15. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, which the Council has confirmed it is unable to do. However, I have found that the proposed development is in an unsustainable location and therefore contrary to the guiding principles regarding sustainable development in the Framework, which the shortfall in housing land supply does not outweigh in this case.
  16. Any potential security benefits which may be provided through the development of the site and the accommodation needs of the appellant's family do not outweigh the harm I have identified above.
  17. Notwithstanding my conclusions in respect of the location of the site, I find material harm to the character and appearance of the countryside and conflict with the aims of policies concerning the sustainability of new housing.
  18. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*T, Cannon*

INSPECTOR



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## Appeal Decisions

Site visit made on 6 February 2014

by **Andrew Dale BA (Hons) MA MRTPI**

Date 27 February 2014

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### **Appeal A Ref: APP/F1040/C/13/2204007**

#### **Land lying to the west of Main Street, Repton, Derbyshire DE65 6FB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by South Derbyshire District Council.
  - The appeal is made by Mrs N Lowe.
  - The notice was issued on 24 July 2013.
  - The breach of planning control as alleged in the notice is the erection of a detached timber building along with the formation of a hardstanding area with timber retaining walls without planning permission.
  - The requirements of the notice are to:
    - (1) Remove the detached timber building and timber retaining walls from the land.
    - (2) Remove the hardstanding from the area hatched on the attached plan, appendix GJR1 from the land.
    - (3) Permanently remove all material resulting from complying with the above from the land.
  - The period for compliance with the requirements is 60 days.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
- 

### **Appeal B Ref: APP/F1040/A/13/2205457**

#### **136 Main Street, Repton, Derby DE65 6FB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Lowe against the decision of South Derbyshire District Council.
  - The application ref. 9/2013/0075, dated 1 February 2013, was refused by notice dated 28 March 2013.
  - The development proposed is "A barn conversion with kitchen extension on the side."
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## Decisions

### **Appeal A Ref: APP/F1040/C/13/2204007**

1. It is directed that the enforcement notice be corrected by altering the text "section 171A(2)" to the text "section 171A(1)" in the first paragraph that starts **This notice**. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

### **Appeal B Ref: APP/F1040/A/13/2205457**

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in the proposed residential curtilage (red edge) as a garage for the barn conversion. The Design and Access Statement says that "The position of the parking area and garage keeps the cars away from Main Street which is not ideal for parking."

10. The unauthorised timber building and the brick-built barn stand on agricultural land and can be approached via a vehicular access through the grounds of the Woodend Private Day Nursery/appellant's dwelling or via a private track which joins Main Street between nos 140 and 142 Main Street. There are two fields here under the control of the appellants. They occupy ground which rises to the west and extend in total to about 0.6 ha, measuring off the enforcement notice plan and the plans submitted with the planning application.
11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all development proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the South Derbyshire Local Plan (LP) adopted in 1998. The National Planning Policy Framework (the Framework) is an important material consideration. This advises at paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The Council mentions an emerging Local Plan but given the stage (draft version out for consultation late last year) it has reached, I subscribe very little weight to it.

**Appeal A, the appeal on ground (a) and the deemed planning application**

12. I consider the main issue here to be whether the development enforced against represents acceptable development in the countryside.
13. Whilst the appeal site is situated behind a ribbon of predominantly residential development along the western side of Main Street, the surroundings are distinctly rural and the site lies outside the defined village boundary for Repton. The appeal site is, in policy terms, within the countryside.
14. As such, LP Environment Policy 1 explains that outside settlements new development will not be permitted unless it is essential to a rural-based activity or unavoidable in the countryside and the character of the countryside, the landscape quality, wildlife and historic features are safeguarded and protected. If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside. This development plan policy is consistent with the Framework which recognises the intrinsic character and beauty of the countryside and the need to support thriving rural communities within it and requires good design.
15. There is about 0.6 ha of land given over to a rural-based activity. From what I was shown at the site visit this appears to include the maintenance and care of the pasture and the keeping of three goats, two miniature ponies and some chickens. It is claimed in the appellant's statement that the timber building is required to house expensive agricultural machinery – a trailer and mower. It is a relatively small structure with a restricted door height. At my site visit I saw that there was an attachment (a topper) for a tractor at the front end of the building with hay taking up most of the internal space.

16. The authorised purpose-built stable/storage building is actually several times larger than the unauthorised timber building and has sufficient door height in its eastern wing to comfortably accommodate a tractor and other machinery. In my experience, this building should be ample for the needs of the rural-based activity here given the minimal extent of that activity, the small size of landholding and the limited amount of machinery necessary to maintain the land.
17. Whilst it is proposed that the stable/storage building should be converted to a dwelling, it is nonetheless sufficient, suitable and available for the maintenance and lawful use of the associated land. I do not see how a claim can be reasonably made that the timber building is essential to the rural-based activity here or is otherwise unavoidable in the countryside, if at the same time the larger and more suitable permitted outbuilding is being put forward for an alternative residential use or possibly being used “for the owners’ hobbies and housing of pet” as indicated at part 14 of the planning application form relating to Appeal B.
18. My study of the aerial photography submitted by both main parties reveals that a building of similar size to the timber building stood in the northernmost field in 2009 but not in 1999. There is no conclusive evidence, for instance a lawful development certificate, to demonstrate that this former building was lawful. Therefore, I have been able to attach only very limited weight to this other building which, in any event, was removed from that field some time ago.
19. The unauthorised timber building is redolent of a domestic garage on account of its size, design, appearance and materials. The picture is muddled by the inclusion of the building as a garage in the application site for the conversion of the barn to a dwelling. Be that as it may, the timber building is visually at odds with its countryside location, even though I accept that it is not prominent from public viewpoints along Main Street and that further boundary screening is offered.
20. I find that the hardstanding and timber retaining walls are intrinsically linked to the provision of the timber building on land that was previously part of the sloping field to the west. No retaining structures or hardstanding were visible on this part of the site in 1999 or 2009. The hardstanding and timber retaining walls have an urbanising effect on this area of countryside and detract from the landscape quality of the site.
21. In all, I find that the unauthorised development is not essential to the rural-based activity or unavoidable in the countryside, whilst there is a moderate degree of harm to the character of the countryside and landscape quality. This conflicts with LP Environment Policy 1 and the Framework. I conclude that the development enforced against does not represent acceptable development in the countryside.
22. There is conflict with the development plan and I find no material considerations of sufficient weight to justify planning permission. Thus, the appeal on ground (a) does not succeed and the deemed planning application is refused.

**Appeal A, the appeal on ground (g)**

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23. The issue under ground (g) is whether the compliance period is too short. A period of 60 days has been given. The appellant has requested a period of 12 months. Determining the time needed to comply with the requirements of an enforcement notice will always be a case-specific exercise.
24. The appellant explains that the building was erected to store items that were previously stored in the former building on the northernmost field. It is stated that the appellant will need to find somewhere else to store the valuable equipment and this is likely to be subject to the need for planning permission. A period of 12 months is requested to find an alternative solution.
25. I have already addressed under the ground (a) appeal the question of the former building that was demolished. I agree with the thrust of the Council's case under ground (g) that the existing brick-built outbuilding should be more than sufficient to cater for the essential agricultural needs arising on such a small parcel of agricultural land. The removal of the timber building and the associated hardstanding and timber retaining walls would be a relatively straightforward operation and it should be possible for it to be completed within the period set by the notice. Should any unforeseen circumstances occur, the Council has powers to extend the period for compliance with the notice at its own discretion. Taking all matters into account, I conclude that the appeal on ground (g) should not succeed.

#### **Appeal B, the section 78 appeal**

26. I consider the main issue here to be the effect of the proposed barn conversion on highway safety along Main Street.
27. In addition to the representations from the main parties, I have taken into account those from Bancroft Consulting Limited (BCL), Derbyshire County Council as local highway authority (LHA) and third parties.
28. It is proposed that the barn conversion be served by the private access which joins onto Main Street between nos 140 and 142 Main Street, rather than by the access which passes through the grounds of the nursery/appellant's dwelling. Main Street is a classified road subject to a 30 mph speed limit.
29. LP Transport Policy 6 at part A says, amongst other things, that planning permission will not be granted for development which interferes with the free and safe flow of traffic. Part B expects all proposals for development to incorporate adequate provision for access, parking, manoeuvring and off-street servicing.
30. In my view, that LP policy is consistent with section 4 of the Framework when read as a whole. I acknowledge that paragraphs 35 and 39 of the Framework have no direct relevance to the main issue, but I interpret paragraph 32 similarly to the Council. The wording can only be interpreted as it is written. The second bullet point says that decisions should take account of whether safe and suitable access to the site can be achieved for all people. There is no reference in that particular sentence to it applying only to schemes which generate significant amounts of movement. Where such schemes do, the first sentence of the paragraph expects them to be supported by a Transport Statement/Assessment. The third bullet point is a reference to the residual cumulative impact on the network often some distance from individual

- application sites. The Inspector's appeal report (at paragraph 238 on pages 32 and 33) from Barrow Upon Soar supplied by the appellant alludes to this overall approach i.e. "... the need for safety at the site access itself and residual cumulative impacts on the network that must be severe if development is to be prevented or refused."
31. The document, Guidance on Transport Assessment, is primarily aimed at determining whether an assessment may be required and if so, what the level and scope of that assessment should be. It is of little relevance to this case.
  32. Manual for Streets (MFS1) and Manual for Streets 2 (MFS2) however both provide relevant guidance. The starting point in terms of visibility for a 30 mph speed limit would be 2.4 m (x) by 43 m (y). Based on the speed readings and visibility splay calculations provided by BCL, I accept that the y-distance can be increased to 52 m to the south and reduced to 42 m to the north. As this is not a slow-speed situation, I agree with the LHA that the x-distance should be 2.4 m. The relevant visibility standards I apply to this case for the access are 2.4 m by 52 m to the south and 2.4 m by 42 m to the north.
  33. BCL says that on-site measurements show that visibility splays of about 2.4 m by 12 m to both the north and south can be achieved to a point 1 m away from the nearside kerb along Main Street without encroaching onto third party land. The LHA says that to the carriageway edge the emerging visibility over controlled land is 9 m to the north and 12 m to the south. In either of those scenarios, I regard the visibility at the point of access to be severely substandard in both directions.
  34. On-street parking along the western side of Main Street also hinders visibility further. In accordance with MFS1 and MFS2, ideally parking should be outside the visibility splays but in some circumstances where the speeds are slow, some encroachment may be possible. I do not consider that the speeds along Main Street can be described as low. This roadside parking adds to my concerns about the physical limitations of the access.
  35. MFS2 indicates that unless there is local evidence to the contrary, a reduction in visibility below the recommended level will not necessarily lead to a significant problem. I accept that there have been no recorded accidents on this part of Main Street in this last five years. There appears to have been an incident on the access drive itself on 6 November 2013, the full and exact details of which are not before me. I note also that there are other accesses onto Main Street close to the subject access but that in itself is not a good reason for allowing additional use of an existing access with severely substandard visibility. Whilst I accept that drivers would tend to emerge cautiously, I do not believe the local evidence presented justifies a situation where only about one quarter of the desired visibility splays can be provided in each direction in relation to a fairly busy, classified road.
  36. There appears to be agreement between the LHA and BCL that the subject access serves the barn and parking for two dwellings. Those dwellings may also from time to time take advantage of roadside parking on Main Street given its convenience in relation to the front doors of those dwellings. As the appellant can easily access the barn and fields on foot from the property at 136 Main Street and utilize the other vehicular access from time to time, I have

2. The appeal is dismissed.

### **Procedural matters concerning the enforcement notice under Appeal A**

3. It is clear that the breach of planning control is within the meaning of paragraph (a) of section 171A(1) of the 1990 Act as amended i.e. carrying out development without the required planning permission. The reference to paragraph (a) of section 171A(2) in the first paragraph of the enforcement notice is therefore a source of confusion as that section of the Act relates to what constitutes taking enforcement action. Reading the written representations I am satisfied that the parties have not been misled by the enforcement notice and that I can correct it in the manner indicated without giving rise to any injustice to the parties.
4. The enforcement notice is dated 24 July 2013, not 12 July 2013 as indicated on the appeal form and within the appellant's statement.
5. The site address for Appeal A in the heading above is taken from the enforcement notice, although I accept that it could equally have read 136 Main Street, Repton (as provided at section D of the appeal form).

### **Procedural matters concerning the planning application under Appeal B**

6. The similar descriptions of the proposed development provided on the planning application form (set out in the heading above) and the Council's decision notice make no mention of the intended use. I understand that the proposal relates to the conversion and extension of a barn to form a two-bedroom dwelling.
7. I have considered the representations made by the parties about the submission of certificate A in the light of sections 65, 79 and 327A of the Town and Country Planning Act 1990 and article 11 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.
8. A certificate of ownership was completed. Whilst it transpires that the wrong certificate may have been originally submitted, it does not render it no certificate at all or make the application a nullity. The application was entertained and determined by the Council and an appeal has been submitted within the six-month deadline from the determination of the application. Whilst not all the owners and those with an interest in the land were notified at the time of the application and appeal, it is apparent that the correct procedures – the service of certificate C and notices in two local newspapers – were put in place during December 2013. Two responses to those procedures were received by the Planning Inspectorate and these have been taken into account. On the basis of the information before me, I find that there has been no prejudice to any party. Therefore, the determination of the appeal would not undermine the purpose of section 327A of the 1990 Act.

### **Background**

9. Appeal A concerns a small timber building sited on an area of hardstanding and partly surrounded by timber retaining walls. To the north is a single storey brick-built barn that was erected as a stable/storage building pursuant to a planning permission granted in 1997 (ref. 9/0697/0196/F). Appeal B relates to that barn although I note that the small timber building was actually included

some difficulty in accepting the evidence presented that the lawful use of the barn as two stables with associated storage, restricted from trade and business, generates eight daily vehicular movements along the subject access track.

37. In any event, it is apparent that some of the claimed vehicular activity is generated by the keeping of animals on the two fields. Insofar as I can see there would be no legal restriction preventing the appellant carrying on with some use of the fields if the barn was put to use as a dwelling as proposed. In such a scenario some of the claimed existing vehicular activity would not necessarily be extinguished. Moreover, occupiers of the proposed dwelling are unlikely to make use of roadside parking given the separation distance between it and Main Street. I consider that the Council and LHA were correct to conclude that the proposal would result in a material intensification in the use of the subject access.
38. The appeal report on Barrow Upon Soar is not a directly comparable case. The Highway Authority did not object to that proposal. The highway safety issue appeared to involve a junction some distance from the site where residual cumulative impacts on the network were considered. The identified deficiency in visibility there was relatively minor.
39. In all, I consider that an additional dwelling would materially intensify the use of this private access road which has severely substandard visibility where vehicles emerge onto Main Street. This would compromise both the safety of those drivers and the safety of other road users. I conclude that the proposed barn conversion would have an adverse effect on highway safety along Main Street and thereby conflict with the aims of LP Transport Policy 6, MFS1 and MSF2 and the Framework.
40. There is conflict with the development plan and I find no material considerations of sufficient weight to justify planning permission. Thus, this appeal does not succeed.

*Andrew Dale*

INSPECTOR